

No. 19670

**SPAIN
and
HOLY SEE**

Agreement concerning military jurisdiction and religious assistance to the Armed Forces. Signed at Vatican City on 5 August 1950

Authentic text: Spanish.

Registered by Spain on 27 March 1981.

**ESPAGNE
et
SAINT-SIÈGE**

Accord relatif au statut militaire des religieux et à l'exercice de leur ministère dans les forces armées. Signé à la Cité du Vatican le 5 août 1950

Texte authentique : espagnol.

Enregistré par l'Espagne le 27 mars 1981.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE HOLY SEE AND THE SPANISH STATE CONCERNING MILITARY JURISDICTION AND RELIGIOUS ASSISTANCE TO THE ARMED FORCES

The Holy See and the Spanish Government, desiring to reach an agreement concerning military jurisdiction and religious assistance to the armed forces, have for that purpose appointed as their plenipotentiaries:

His Holiness the Supreme Pontiff: His Excellency the Very Reverend Monsignor Domenico Tardini, Secretary of the Sacred Congregation for Foreign Affairs; and

The Head of the Spanish State: His Excellency Dr. Joaquín Ruiz-Giménez, Ambassador of Spain to the Holy See,

who, having exchanged their full powers, found in good and due form, have agreed on the following articles:

Article I. The Holy See constitutes in Spain a Military Vicariate to provide for the spiritual care of military persons of land, sea and air.

Article II. The Holy See shall proceed to appoint the Military Vicar-General, upon presentation by the Head of the State, as laid down in the Convention in force between the Holy See and Spain concerning appointment to archiepiscopal and episcopal sees and the appointment of coadjutors having the right of succession.

The Military Vicar-General shall be raised to the dignity of archbishop.

Article III. Upon the vacancy of the Military Vicariate, the lieutenant vicar of the First Military Region having the greatest seniority in that office shall assume *ad interim* the functions of the Military Vicar-General, with the appropriate limitations owing to the lack of the dignity of bishop.

Article IV. Admission to the Corps of Chaplains shall take place following a competitive examination in accordance with the rules approved by the Holy See, though academic degrees shall not necessarily be required for participation in the examination, and subject to the provisions of the present Agreement.

To assume the rank of lieutenant vicar, it shall be necessary to possess a licence or doctorate in theology or canon law and to have been declared canonically apt, upon examination, by the Military Vicar-General.

Article V. The ecclesiastical appointment of chaplains shall be made by the Military Vicar-General, who shall issue to them the appropriate title.

Admission to the Corps and assignment to a unit or establishment shall be effected by the appropriate Ministry, on the proposal of the Military Vicar-General.

Article VI. Military chaplains shall exercise their holy ministry under the jurisdiction of the Military Vicar-General, assisted by his own curia.

¹ Came into force on 13 November 1950 by the exchange of the instruments of ratification, which took place at Madrid, in accordance with article XVI.

Given the holy character of chaplains, where they must be sanctioned as a consequence of a matter of a purely military nature, account shall be rendered to the Military Vicar-General, who shall order the sanction to be imposed in the place and manner which he deems most fitting.

The Military Vicar-General shall have the right to suspend military chaplains or remove them from office on canonical grounds and *ad normam juris canonici*, communicating such suspension or removal to the competent Ministry, which, without further formality, shall proceed, in the first-mentioned case, to declare them in a situation of availability, and, in the second case, to dismiss them from the Corps.

Military chaplains, as priests and *ratione loci*, shall be subject to the discipline and vigilance of the diocesan Ordinaries, who shall have the right in urgent cases to take the appropriate canonical measures, provided that in such cases they shall immediately report such measures to the Military Vicar-General.

Article VII. The jurisdiction of the Military Vicar-General and the chaplains is personal; it includes all military persons of land, sea and air in active service (that is to say, under arms), their legitimate wives and minor children, when they live in their company, and students in military schools and academies, and excludes civilians who are in any other way related to such military persons or serve in the armies.

The said jurisdiction shall also include members of the Civil Guard and Armed Police Corps.

Article VIII. Military chaplains shall have parochial competence in matters relating to the persons specified in the preceding article.

In respect of canonical assistance in matrimony, military chaplains shall bear in mind the provision of canon 1097, 2, of the Code of Canon Law, which prescribes: "*Pro regula habeatur ut matrimonium coram sponsae parochia celebretur, nisi justa causa excuset*"; and in case a marriage is celebrated before a military chaplain, he shall heed all canonical prescriptions and in particular those of canon 1103, §§ 1 and 2.

Notwithstanding what is laid down by canon 1962 of the Code of Canon Law, the right to hear matrimonial causes concerning persons subject to military ecclesiastical jurisdiction shall be retained by the local Ordinaries.

Article IX. However military jurisdiction may be exercised within the territory of the different dioceses, it shall be cumulative with that of the diocesan Ordinaries. Nevertheless, in barracks, airports, military arsenals, the residence of military headquarters, military schools and academies, hospitals, courts, prisons, camps and other places intended for troops of land, sea and air, such jurisdiction shall be exercised primarily and principally by the Military Vicar-General and the military chaplains; and subsidiarily, though always by inherent right, by the diocesan Ordinaries and local parish priests, in default or in the absence of the Military Vicar-General and military chaplains, by means of appropriate agreements, as a general rule, with the Military Vicar-General, who shall inform the competent military authorities.

Outside of the places referred to above, diocesan Ordinaries shall freely exercise their jurisdiction, as shall the local parish priests when they are so requested.

Article X. When military chaplains are required, in functions relating to their sacred ministry with respect to military persons, to officiate outside of the churches, establishments, camps and other places regularly destined for them, they shall apply in advance to the diocesan Ordinaries or local parish priests or rectors to obtain the appropriate permission.

Article XI. The Military Vicar-General shall come to an understanding with the diocesan bishops and religious superiors-general for the designation, from among their subordinations, of an adequate number of priests who, without leaving the offices which they hold in their diocese or institution, shall devote themselves to assisting the military chaplains in the spiritual service of the armed forces.

Such priests and religious shall exercise their ministry, with respect to military persons, under the orders of the Military Vicar-General, from whom they shall receive the necessary faculties *ad nutum*, and shall be recompensed by way of ministerial stipend or fee.

Article XII. The Spanish State recognizes that clergy and religious, whether professed or novices, shall be exempt from all military service in accordance with canons 121 and 614 of the Code of Canon Law.

1. In time of peace, the Military Vicar-General shall have the right, upon agreement with the diocesan Ordinaries or religious superiors-general, to call, in so far as necessary and for a period in no event greater than the duration of military service in the ranks, priests and professed religious who have reached the age of 30 years to perform in the armies the functions of their holy ministry or provide religious assistance to the armed forces, to the exclusion of all other service.

2. Seminarists, postulants and novices shall be granted deferments in peace-time in respect of the performance of all military obligations, applying for annual extensions during the period remaining before they receive their holy orders or take their vows, respectively.

Rectors of seminaries and superiors of religious houses shall promptly send to the competent military authorities notice of those seminarists, postulants and novices who, having been granted such extensions, abandon the seminary or religious institution.

Bishops and religious superiors-general shall have the same obligation in respect of clergy who, in accordance with the sacred canons, have been reduced to lay condition and religious who, not having received holy orders and being of military age, abandon their institution.

3. All clergy, seminarists and religious, including novices and postulants, shall be excluded from mobilizations decreed for the purposes of instruction.

Article XIII. In cases of general mobilization owing to war, secular or regular priests who have attained the age to which the mobilization applies and are needed, in the opinion of the Military Vicar-General, shall be called to perform their sacred ministry in the armed forces as chaplains and shall enjoy the consideration due to officers.

In cases of mobilization owing to war, non-sacerdotal clergy and religious, as well as seminarists, postulants and novices, who have attained the age to which such mobilization applies, shall, to the extent deemed necessary by the Military Vicar-General, be appointed to assist the chaplains in their spiritual

ministry or to other services compatible with their ecclesiastical character. Those among them who, at the time when the mobilization is decreed, are preparing for the priesthood shall have the benefit of such extendible leaves as are in each case warranted by the circumstances in the opinion of the Military Vicar, in order that they may continue their studies in the seminary or religious house to which they belong.

They shall cease to have the benefit thereof if they abandon their studies or when they complete the course, which circumstances shall be immediately communicated to the military authority by the competent rectors or superiors.

A seminarist or novice on whose behalf a priest of the regular or secular clergy duly authorized by his ecclesiastical superiors voluntarily presents himself, in order himself to provide at the front the service of his priestly ministry, shall in all cases be granted such leaves.

Article XIV. In cases of general mobilization owing to war, priests having cure of souls shall be excused from the performance of military obligations. Considered as such are Ordinaries, parish priests, curates and rectors of churches open for worship.

Dispensation from the aforementioned obligations shall also be granted, even in cases of general mobilization owing to war, to titular bishops, rectors of seminaries, and missionaries, that is to say, priests and religious who, with the proper authorization of the competent ecclesiastical authority, devote themselves to apostleship in mission territories.

Article XV. The Military Vicar-General or a lieutenant vicar who assumes his functions *ad interim* shall have the right to apply to the Holy See for the grant and subsequent renewal of such faculties, graces and privileges as they deem appropriate.

Article XVI. This Agreement shall be subject to ratification and the ratifications shall be exchanged within the shortest possible period.

DONE in duplicate, at Vatican City, on 5 August 1950.

For the Holy See:

[Signed]

DOMENICO TARDINI
Secretary of the Sacred Congregation
for Extraordinary Affairs

For the Spanish Government:

[Signed]

JOAQUÍN RUIZ-GIMÉNEZ
Ambassador of Spain
to the Holy See