

19 U.S.T. 6317

TURKEY

Status of United States Forces in Turkey: Duty Certificates

TIAS 6582

19 U.S.T. 6317

September 24, 1968, Date-Signed

September 24, 1968, Date-In-Force

**STATUS:**

[\*1] Agreement effected by exchange of notes

Signed at Ankara September 24, 1968;

Entered into force September 24, 1968.

[NO LONG-TITLE IN ORIGINAL]

**TEXT:**

*The American Ambassador to the Minister of Foreign Affairs of Turkey*

ANKARA, *September 24, 1968.*

No. 2611

**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 Forces n1 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 [\*2] of their Forces, and according to the practices in the other NATO countries.

"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 [\*3] 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 [\*4] 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."

-----Footnotes-----

-----End Footnotes-----

I have the honor to propose that, if the [\*5] 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-memoire which were exchanged on July 28, 1956, n1 will be considered terminated on that same date.

-----Footnotes-----

n1 Not printed.

-----End Footnotes-----

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

*The Minister of Foreign Affairs of Turkey to the American Ambassador*

TURKIYE CUMHURİYETİ DİŞİŞLERİ BAKANLIĞI n2

-----Footnotes-----

n2 Republic of Turkey

Ministry of Foreign Affairs

-----End Footnotes-----

ANKARA, *September 24, 1968*

Note No: 6302/5399

EXCELLENCY:

I have the honour to acknowledge the receipt of Your Note of September 24, 1968 which reads as [\*6] follows:

"EXCELLENCY:

I have the honour 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 Forces and have the honour to propose the following:

Article 1. In case of offences 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.

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 [\*7] of the afore-said Agreement, the Public Prosecutor of the locality where the offense has been committed shall inquire of the Turkish General Staff, through the Ministry of Justice, whether the offense arose out of any act or omission done in the performance of official duty. The Turkish General Staff 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 the 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 1 above, one copy of that certificate shall be forwarded immediately to the Turkish General Staff and another to the commander of the unit to which the accused is assigned or attached.

(C) If accepted by the Turkish General Staff 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 [\*8] 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 Turkish General Staff. The Turkish General Staff 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 Turkish General Staff of the outcome of the case.

(D) If not found acceptable by the Turkish General Staff and withdrawn by the concerned authorities of the Sending State, the Turkish General Staff 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 Turkish General Staff and not withdrawn by the concerned authorities of the [\*9] 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 Turkish General Staff 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 honour 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 [\*10] is the understanding of my Government that the agreement concerning duty certificates contained in the aidememoire which were exchanged on July 28 1956, will be considered terminated on that same date.

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

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.

**SIGNATORIES:**

PARKER T. HART

His Excellency

IHSAN SABRI CAGLAYANGIL,

*Minister of Foreign Affairs of the Republic of Turkey, Ankara.*

**Ihsan Sabri Caglayangil**

**Minister of Foreign Affairs**

His Excellency

PARKER THOMPSON HART

Ambassador of the United States of America

*Ankara*