

JURISDICTION OVER CRIMINAL OFFENSES COMMITTED BY MEMBERS OF ARMED FORCES

Exchanges of notes at Cairo March 2, 1943; procès-verbal of signature signed March 2, 1943

Entered into force March 2, 1943

Terminated April 28, 1952¹

57 Stat. 1197; Executive Agreement Series 356

EXCHANGES OF NOTES

The Prime Minister and Minister of Foreign Affairs to the American Minister.²

MINISTÈRE DES AFFAIRES ÉTRANGÈRES

No. P. 4.-55.9/137 C

CAIRO, March 2, 1943

YOUR EXCELLENCY:

With reference to the request which you have addressed to me in the name of the Government of the United States of America, I have the honour to inform you that the Egyptian Government has decided to accord, for the duration of the war, immunity from jurisdiction in criminal matters to members of the United States Forces in Egypt, in accordance with the following procedure:

The expression "United States Forces" will include all persons subject to the military and naval law of the United States who are members of the United States armed Forces on Egyptian territory as well as all civilian employees of American nationality who are accompanying the said Forces or serve with them and who are bearers of certificates issued by the competent American authority defining their status. It is understood that the wives and children of the members of the United States Forces do not benefit hereby from any immunity from jurisdiction and will be amenable to the jurisdiction of Egyptian courts.

The immunity from jurisdiction accorded by the Egyptian Government

¹ Date of entry into force of treaty of peace with Japan (3 UST 3169; TIAS 2490).

² Note delivered in English, French, and Arabic languages.

will cover crimes, misdemeanors and police offences committed in Egypt by the members of the United States Forces. However, when the infraction will have been committed by a civilian employee referred to above the Egyptian Government reserves the right, either to turn over the offender to the Egyptian courts or to hand him over to the competent American military authorities.

In cases in which members of the civilian population are victims, a competent American military court sitting in Egypt will judge the case without delay and in public session, unless sittings behind closed doors are necessary for reasons of security. The sentence will be communicated to the Ministry of Foreign Affairs through the good offices of the Legation of the United States.

The American military courts shall not assume jurisdiction over members of the civilian population of Egypt.

The Egyptian Government will undertake, on the written request of the interested American authority, the investigation, arrest and delivery of any member of the United States Forces declared deserter or absent without leave.

Except in cases provided for in the preceding paragraph, the members of the United States Forces may be arrested by the Egyptian authorities only in circumstances which would justify the arrest of civilians of American nationality.

When a member of the United States Forces has been arrested by the Egyptian authorities, the following procedure will apply:

Notification of the arrest will be made immediately to the competent American military authority together with data regarding the name and other details concerning the person arrested and information regarding the nature of the infractions for which the said person has been arrested. Except when the case is to be submitted to the Egyptian courts, the offender will be delivered to the interested American authority. Complete details of the charges brought against the suspect with the names and addresses of the witnesses and data concerning them will be handed or sent to the interested American authority.

When a member of the United States Forces has been accused of having committed an infraction for which he has not been arrested, the details of this suspected infraction, with the procès-verbal will be communicated as quickly as possible to the competent American military authorities.

The two Governments will extend to each other mutual assistance in investigations concerning infractions which may have been committed by members of the United States Forces or of which they may have been the victims. The Egyptian Government will take at the request of the competent American military authority, all reasonable measures to the end that persons amenable to its jurisdiction appear as witnesses before the American military

courts in Egypt; likewise the Government of the United States will take all reasonable measures to assure the presence of any member of the United States Forces as witnesses at the sessions of the Egyptian courts, and this on request made by the competent official of the Ministry of Justice or by the President of the competent court.

It must be expressly understood that the exceptional regime provided for above is accorded only because of the special situation resulting from the war and that it will terminate in all respects at the end of the war to permit the return to normal law.

In case of acceptance, the present letter and your reply will be considered as constituting an agreement binding our two Governments and will be published in the 'Official Journal'. In my capacity of Military Governor General, I will not fail to take thereafter the necessary internal measures to put this agreement into effect.

I take this opportunity to renew to Your Excellency the assurances of my high consideration.

Minister of Foreign Affairs
M. NAHAS

His Excellency

Mr. ALEXANDER KIRK

*Envoy Extraordinary and Minister Plenipotentiary
of the United States of America*

*The American Minister to the Prime Minister and Minister of Foreign
Affairs*³

LEGATION OF THE
UNITED STATES OF AMERICA
CAIRO, *March 2, 1943*

No. 759

EXCELLENCY:

Referring to your letter No. P. 4.-55.9/137 C of March 2, 1943, in which Your Excellency has been so good as to inform me that the Egyptian Government had decided to accord immunity from jurisdiction in criminal matters to the members of the United States Forces in Egypt, I have the honor to advise you in the name of the Government of the United States of its full agreement on the various provisions of your letter and to express to Your Excellency the appreciation and thanks of the United States Government for the cooperation of the Egyptian Government in this matter.

I hasten to assure you that the United States military authorities will take all necessary measures for the prosecution and punishment of all infractions committed in Egypt by members of the United States Forces.

It is also expressly understood that the exceptional regime provided for

³ Note delivered in English, French, and Arabic languages.

above has been accorded by the Egyptian Government only because of the special situation resulting from the war and that it will terminate in all respects at the end of the war to permit the return to normal law.

I am in addition in agreement that Your Excellency's letter and this reply be considered as constituting an agreement binding our Governments.

I take this opportunity to renew to Your Excellency the assurances of my highest consideration.

ALEXANDER KIRK

His Excellency

Moustapha El NAHAS Pasha

Prime Minister and Minister of Foreign Affairs

Cairo

The American Minister to the Prime Minister and Minister of Foreign Affairs

LEGATION OF THE
UNITED STATES OF AMERICA
CAIRO, *March 2, 1943*

MY DEAR MR. PRIME MINISTER:

With reference to our exchange of notes of today's date, by which the Egyptian Government has been so kind as to accord to the United States Government jurisdiction in criminal matters over members of the United States Armed Forces in Egypt, I take pleasure in advising Your Excellency of the existing arrangements for the handling of claims against persons and property arising as a result of the voluntary and involuntary acts committed by Members of the said United States Armed Forces in Egypt, as follows:

1. There is now functioning in Egypt a United States Claims Commission for the Middle East, composed of three members, set up under authority contained in an Act of the Congress of the United States of America approved January 2, 1942,⁴ which is competent to hear claims arising out of acts committed by members of the United States Armed Forces in Egypt and to make and order payment of awards which do not exceed \$1,000.

2. With regard to the limitation upon the amount of the awards of the aforementioned Claims Commission, I have been informed by my Government that the War Department is already seeking from the Congress of the United States authority to increase the limitation from \$1,000 to \$5,000. When such authorization has been obtained, I shall not fail to inform Your Excellency.

3. In addition to the settling of claims by the aforementioned Claims Commission, the United States military authorities in Egypt will undertake

⁴ 55 Stat. 880.

to lend their good offices in carrying out the necessary formalities for petitioning the Congress of the United States to approve claims over \$1,000.

4. The United States military authorities in Egypt agree that claimants may be represented before the United States Claims Commission for the Middle East by an Egyptian official and assisted by the special office established for the purpose of assisting claimants in the presentation of their claims against members of any of the Allied Armed Forces in Egypt.

I feel sure that the Egyptian Government will find satisfactory the aforementioned procedure for the settling of claims arising out of acts committed by members of the United States Armed Forces in Egypt.

Please accept, my dear Mr. Prime Minister, the renewed assurances of my highest consideration.

ALEXANDER KIRK

His Excellency

Moustapha El-NAHAS Pasha

*Prime Minister and Minister for Foreign Affairs
Cairo*

*The Prime Minister and Minister of Foreign Affairs to the American
Minister*

[TRANSLATION]

MINISTRY
OF
FOREIGN AFFAIRS
No. P. 4.-55.9/137 C

CAIRO, *March 2, 1943*

MY DEAR MINISTER:

Referring to your note of March 2, 1943, in which there is set forth the procedure for the settlement of claims pertaining to acts committed by the members of the United States Armed Forces in Egypt, I have the pleasure to advise you that the Egyptian Government agrees to the procedure in question but reserves to itself the right to raise the question again in the future if it should appear that this procedure, either in a general way or in connection with certain particular cases, does not operate in such a manner as to do justice to the claimants.

I must, furthermore, reserve the right of the Egyptian Government to make diplomatic reservations with a view to re-examination and correction of the decision when it is of the opinion that a decision of the United States Claims Commission for the Middle East is unjust.

Please accept, my dear Minister, the assurance of my high consideration.

M. NAHAS

PROCÈS-VERBAL OF SIGNATURE

[TRANSLATION]

MINISTRY
OF
FOREIGN AFFAIRS

No. _____

PROCÈS-VERBAL OF THE SIGNING OF THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND EGYPT, RELATIVE TO IMMUNITY FROM PENAL JURISDICTION OF MEMBERS OF THE AMERICAN FORCES IN EGYPT

In the year nineteen hundred forty-three and on the second day of March, at Cairo,

there met at the residence of His Excellency Mustapha El Nahas Pasha :

His Excellency Alexander Kirk, Envoy Extraordinary and Minister Plenipotentiary of the United States of America in Egypt, representing his Government, assisted by Mr. J. E. Jacobs, Counselor of the Legation ;

His Excellency Mustapha El Nahas Pasha, President of the Council of Ministers, Minister of Foreign Affairs, representing the Egyptian Government, assisted by His Excellency Mohammed Sharara Pasha, Under Secretary of State in the Ministry of Foreign Affairs, and Mr. Awad El Bahraoui Bey, Minister Plenipotentiary, in charge of the Political and Economic Department in the Ministry of Foreign Affairs, for the purpose of proceeding to the exchange of notes relative to immunity from penal jurisdiction of members of the American Forces in Egypt.

After His Excellency the Minister of the United States stated that his Government had officially authorized him to conclude an agreement with the Egyptian Government on this subject, His Excellency Mustapha El Nahas Pasha handed to him the note signifying the accord of the Egyptian Government with respect to granting the said immunity.

Having taken cognizance of this note, His Excellency the Minister of the United States handed to His Excellency a note stating that he had learned of the Egyptian Government's decision and indicating the agreement of his Government with the provisions contained in the Egyptian Government's note.

The Minister of the United States then handed to His Excellency the Minister of Foreign Affairs of Egypt a note concerning the settlement of claims arising from acts committed by members of the Forces of the United States of America.

Having taken cognizance of this note, His Excellency handed to His Excellency the Minister of the United States his response to this note.

On this occasion, His Excellency the President of the Council of Ministers, Minister of Foreign Affairs, stated to His Excellency the Minister of the United States that the Egyptian Government had granted this immunity only

in order to strengthen the relations of friendship which happily exist between Egypt and the United States, and by reason of the particular situation resulting from the war, and that this exceptional arrangement will terminate automatically at the close of the war between the United States of America and the Axis countries in order to permit a return to the common law.

IN WITNESS WHEREOF, the present Procès-Verbal has been drawn up and signed in two original copies.

ALEXANDER KIRK
*The Minister of the
United States of America*

M. NAHAS
*The President of the Council of Ministers
Minister of Foreign Affairs*