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Criminal Jurisdiction Over Visiting Armed Forces

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The thoughts and opinions expressed are those of the authors and not necessarily of the U.S. government, the U.S. Department of the Navy or the Naval War College.

APPENDIX II

ICELAND. ANNEX TO DEFENSE AGREEMENT¹

Annex to Defense Agreement between the United States and Iceland, May 8, 1951. 2 UST 1533, TIAS 2295.

ARTICLE 1

In this annex, the expression "United States Forces" includes personnel belonging to the armed services of the United States and accompanying civilian personnel who are in the employ of such services and are not nationals of nor ordinarily resident in Iceland, all such personnel being in the territory of Iceland in connection with operations under this Agreement.²

ARTICLE 2

1. (a) The United States military courts will on no occasion have jurisdiction in Iceland over nationals of Iceland or other persons who are not subject to the military laws of the United States.

(b) It is the duty of members of the United States forces and their dependents in Iceland to respect the laws of Iceland and to abstain from any activity inconsistent with the spirit of this Agreement, and, in particular, from any political activity in Iceland. The United States will take appropriate measures to that end.

2. Subject to the provisions of this Article,

(a) the military authorities of the United States shall have the right to exercise within Iceland all jurisdiction and control conferred on them by the laws of the United States over all persons subject to the military law of the United States.

(b) the authorities of Iceland shall have jurisdiction over the members of the United States forces with respect to offenses committed within Iceland and punishable by the law of Iceland.

¹ Came into force on 8 May 1951, by signature.

² See p. 173 of 2 UST 1533, TIAS 2295.

3. (a) The military authorities of the United States shall have the right to exercise exclusive jurisdiction over persons subject to the military law of the United States with respect to offenses relating to its security, but not to that of Iceland, and to all acts punishable by the law of the United States, but not by the law of Iceland.

(b) The authorities of Iceland shall have the right to exercise exclusive jurisdiction over members of the United States forces with respect to offenses relating to the security of Iceland, but not to the security of the United States, and to all acts punishable by the law of Iceland, but not by the law of the United States.

(c) A security offense against Iceland or the United States shall include

1. Treason

2. Sabotage, espionage or violation of any law relating to official secrets of Iceland or the United States, or secrets relating to the national defense of Iceland or the United States.

4. In cases where the right to exercise jurisdiction is concurrent the following rules shall apply:

(a) The military authorities of the United States shall have the primary right to exercise jurisdiction over a member of the United States forces in relation to

1. Offenses solely against the property of the United States or offenses solely against the person or property of another member of the United States forces or of a dependent of a member of such force.

2. Offenses arising out of any act done in the performance of official duty.

(b) In the case of any other offense the authorities of Iceland shall have the primary right to exercise jurisdiction.

(c) If the United States or Iceland, whichever has the primary right, decides not to exercise jurisdiction, it shall notify the authorities of the United States or Iceland, as the case may be, as soon as practicable. The authorities of the United States or of Iceland, whichever has the primary right, shall give sympathetic consideration to a request from the authorities of the United States or Iceland, as the case may be, for a waiver of its rights in cases where the authorities of the other country considers such waiver to be of particular importance.

5. A death sentence shall not be carried out in Iceland by the authorities of the United States.

6. (a) The authorities of the United States and Iceland shall assist each other in the arrest of members of the United States forces and their dependents who commit offenses in Iceland and in handing them over to the authorities which are to exercise jurisdiction in accordance with the above provisions.

(b) The authorities of Iceland shall notify promptly the military authorities of the United States of the arrest in Iceland of any members of the United States forces or of their dependents.

(c) The custody of an accused over whom Iceland is to exercise jurisdiction shall, if he is in the hands of the authorities of the United States, remain in the hands of such authorities until he is charged by Iceland.

7. (a) If a member of the United States forces is accused of an offense the appropriate authorities of the United States and Iceland will render mutual assistance in the necessary investigation into the offense and trial of the offender.

(b) If the case is one within the jurisdiction of the United States, the authorities of Iceland will themselves carry out the necessary arrangements to secure the presence of and obtain evidence from Icelandic nationals and other persons in Iceland, except from members of the United States forces and their dependents, outside the agreed areas. In cases where it is necessary under the laws of the United States for the authorities of the United States to obtain themselves information from Icelandic nationals, the Icelandic authorities will make all possible arrangements to secure the attendance of such nationals for interrogation in the presence of Icelandic authorities at places designated by them.

The military authorities will, in a similar manner, carry out the collection of evidence from members of the United States forces and their dependents in the case of an offense within the jurisdiction of the Icelandic authorities.

(c) The authorities of the United States and of Iceland shall notify one another of the results of all investigations and trials in cases where there are concurrent rights to exercise jurisdiction.

8. Where a member of the United States forces or dependent of a member thereof has been tried by the authorities of the

United States and has been acquitted, or has been convicted and is serving or has served his sentence, he may not be tried again for the same offense by the authorities of Iceland.

9. Whenever a member of the United States forces or a dependent of a member thereof is prosecuted under the jurisdiction of Iceland, he shall be entitled:

- (a) To a prompt and speedy trial;
- (b) To be informed in advance of trial of the specific charge or charges made against him;
- (c) To be confronted with the witnesses against him;
- (d) To have compulsory process for obtaining witnesses in his favor, if within the jurisdiction of Iceland;
- (e) To defense by a qualified advocate or counsel of his own choice, or, failing such choice, appointed to conduct his defense;
- (f) If he considers it necessary, to have the services of a competent interpreter; and
- (g) To communicate with a representative of his government and, when the rules of the court permit, to have such a representative present at his trial.

10. The United States forces shall have the right to police the agreed areas and to take all appropriate measures to insure the maintenance of discipline, order and security in such areas. Outside the agreed areas, military members of the United States forces shall be employed in police duties subject to arrangements with the authorities of Iceland and jointly with those authorities, and insofar as such employment is necessary to maintain discipline and order among the members of the United States forces and the dependents of members thereof.

The Icelandic authorities with whom members of the United States forces may be so employed shall have paramount authority with respect to the person or property of Icelandic nationals and other persons of non-Icelandic nationality, except members of the United States forces and their dependents and non-Icelandic employees of contractors of the United States, involved in any matter concerning the maintenance of order and discipline referred to above outside the agreed areas.