

ARTICLE 38

1. If in the course of criminal or non-criminal proceedings or hearings before a court or authority of a force or of the Federal Republic it appears that the disclosure of an official secret of either of the States concerned, or the disclosure of any information which could prejudice the security of either of them might result, the court or the authority shall, prior to taking further action, seek the written consent of the appropriate authority to the disclosure of the official secret or information. In the event that the appropriate authority advances considerations against disclosure, the court or authority shall take all steps in its power, including those to which paragraph 2 of this Article relates, to prevent such disclosure, provided no constitutional right of any party to the proceedings is thereby impaired.

2. The provisions of Sections 172 to 175 of the German Judicature Act (Gerichtsverfassungsgesetz) on the exclusion of the public from hearings in criminal and non-criminal proceedings, and of Section 15 of the German Code of Criminal Procedure on the transfer of criminal proceedings to a court in a different district, shall be applied *mutatis mutandis* in cases before German courts and authorities where there is a threat to the security of a force or of a civilian component.

ARTICLE 39

Privileges and immunities of witnesses and experts shall be those accorded by the law of the court or authority before which they appear. The court or authority shall, however, give appropriate consideration to the privileges and immunities which witnesses and experts, if they are members of a force or of a civilian component or dependents, would have before a court of the sending State or, if they do not belong to these categories of persons, would have before a German court.

ARTICLE 40

Subject to any provision to the contrary in the NATO Status of Forces Agreement or in the present Agreement, archives, documents, official mail recognizable as such and property of a force shall be immune from search, seizure or censorship by the German authorities except where immunity is waived.

ARTICLE 41

1. The settlement of claims in respect of damage caused by acts or omissions of a force, a civilian component or their members, or by other occurrences for which a force or a civilian component is legally responsible, shall be governed by the provisions of Article VIII of the NATO Status of Forces Agreement and the provisions of this Article supplementary thereto.

2. No compensation shall be payable in respect of

- (a) damage to public roads, highways, bridges, navigable waterways and other public traffic facilities resulting from their use by a force or a civilian component for normal traffic purposes;