Declassified E.O. 12356 Section 3.3/NND No. 785016

ACC 10000/105/671 YUGO-SLA
JAN. 1946

Declassified E.O. 12356 Section 3.3/NND No. 785016

10000/105/671

YUGO-SLAV ACTIVITIES IN VENEZIA GIULIA
JAN. 1946

~~AC/14/5 A/CA.~~

Original documents in file 9005/72/E.C.

14/5. A/CA.

Lempory Cord.

Yugo-Slav Activities in

Venezia Giulia.

~~(Venezia Giulia)~~

Declassified E.O. 12356 Section 3.3/NND No. 785076

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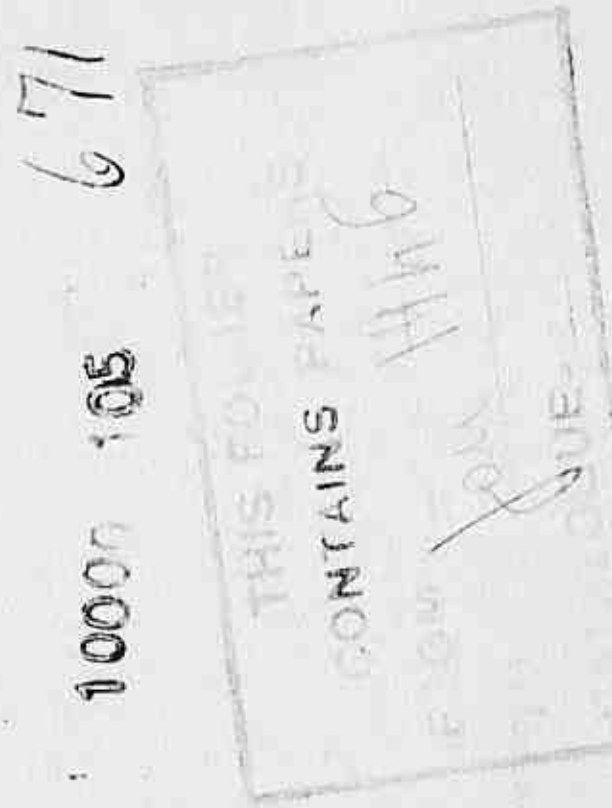

Declassified E.O. 12356 Section 3.3/NND No. 785016

14/5B/C

URGENT

3A

31 GEN 1946

Ref: 9003/EC

31 January 1946

SUBJECT: Yugoslav Activities in Venezia Giulia.

TO : Economic Section
Civil Affairs Section (Attn: Legal S/O)
SCAO Venezia Giulia.

1. Ref our 9003/72/EC of 23 January 1946.

2. The Chief Commissioner is anxious to receive your comments as soon as possible, in order that the whole correspondence can be forwarded to G-5 AFHQ.

B. Sampson

for Brigadier
Executive Commissioner

File. All papers are now gone down
F.E.C.
31 Jan.

ALLIED COMMISSION HEADQUARTERS 198

Minute Sheet.

1.

Office of the Ex. Com.

Ref your file 9008/72/EC of 23rd Jan. all relative documents are returned to you with original letter from the Italian Minister for Foreign Affairs. Attached also is Legal Sub Commission's comments on the points raised in the Minister's letter.

31 Jan.

J. Richard Leader Maj
C.A. Section

2.

C.A. Section

Thank you - I have taken what we want & return herewith the carbon copies for your files; we have copies

RS 31/1

Noted. JK.

Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

2A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/mda.

AC/4034/12/L. 31 January 1946.

SUBJECT : Jugoslav Activities in VENEZIA GIULIA. 31 GEN 1946

TO : C.A. Section.

1. Reference your No. 9008/72/EC of 23 January enclosing for comments a letter of the Prime Minister to the Chief Commissioner pointing out the serious situation that will result in VENEZIA GIULIA if the Jugoslav claims to War Booty are granted.

2. The questions raised in paras. 1 to 5 of the Prime Minister's letter of 15th Jan. have been dealt with in Instructions of AFHQ to the XIII Corps dated 19th August 1945. Ships and port equipment mentioned in para. 3 of the Prime Minister's letter are dealt with in paras. 5 and 9 of the Instructions just referred to, and if any items of this class have been released to the Jugoslavs such release is contrary to the Instructions.

3. With regard to the points raised in (a), (b), (c), (d), and (e) of the Prime Minister's letter reference should be made to para. 7 and Appendix "C" of the Instructions, the former of which states that "Items of Italian Government or governmental agency ownership may be released (if within the definition of war booty) to the Jugoslavs only provided there is evidence that effective control of such items has been assumed by the German or Fascist Republican authorities." Appendix "C" contains a definition of "War Booty" and notes indicating how the definition should be applied to concrete cases.

4. Any property used by the Germans (or by the Fascist Republican army) coming within the definition of "War material" actually seized after the Armistice between the United Nations and the German Forces fighting in Italy is subject to the provisions of such Armistice. All other Italian property is governed by the terms of the Armistice between the United Nations and Italy. Italian property which has been unlawfully taken by the

[illegible] by the German or Fascist Republican authorities." Appendix "B" contains a definition of "War Booty" and notes indicating how the definition should be applied to concrete cases.

4. Any property used by the Germans (or by the Fascist Republican army) coming within the definition of "war material" actually seized after the Armistice between the United Nations and the German Forces fighting in Italy is subject to the provisions of such Armistice. All other Italian property is governed by the terms of the Armistice between the United Nations and Italy. Italian property which has been unlawfully taken by the Germans (property belonging to private persons or companies, for instance) is governed by the Armistice between the United Nations and Italy for the simple reason that the Germans had acquired no valid title.

5. An agreements between AFHQ and the Jugoslavs should take into consideration the position of Italy and Italian property as it is strictly under the terms of the Armistice and under international law; if in the agreement with the Jugoslavs we granted them something that cannot be taken by as under the Armistice Terms, the Jugoslavs have got no claim against the Italian Government, though they may have a claim against us. Nemo plus juris in alium transferre potest quam ipse habet. The view just expressed is in agreement with the point of view put forward by the Prime Minister in para. 7 (c) of his letter, and also in accord with the views expressed by the Chief Commissioner in his letter (AC/4034/12/L.) of 8 Aug. to AFHQ.

Musgrave Thomas

MUSGRAVE THOMAS,
Italian Branch,
for Chief Legal Advisor.

Letter No. 9008/72/PC and enclosures returned.

Declassified E.O. 12356 Section 3.3/NND No. 785076

Declassified E.O. 12356 Section 3.3/NND No. 785016

(1A)

HEADQUARTERS ALLIED COMMISSION
APO 394
Office of the Executive Commissioner

24 GEN 1946

Ref: 9008/72/EC

23 January 1946

SUBJECT: Yugoslav Activities in Venezia Giulia.

TO : Economic Section.
Civil Affairs Section.
(attn: Legal S/C).
S.C.A.O. AMG XIII Corps.

1. Attached please find copy of letter 43/01431/2 dated 15 January 1946 from the Italian Minister for Foreign Affairs.

2. Your comments would be appreciated.

F. H. McCLEARY
Lt. Col.

Brigadier
Executive Commissioner

To Legal S.C.
Forwarded for your comments pl.
J. Keates, Maj.
Ca. Section.

24 Jan. 46.

Legal Counsel
Rec'd 24 Jan 46.

ALLIED COMMISSION 396

5096

Declassified E.O. 12356 Section 3.3/NND No. 785016

Translation

The Minister for Foreign Affairs

43/01431/2

Rome, 15 January 1946

Dear Admiral,

I take the liberty of bringing to your attention a fact which threatens to have the most serious consequences for the economy of Venezia Giulia, which has already been tried so hard because of its special regime of occupation; it made a deep impression not only on the population of Venezia Giulia but also on that of the whole country. I mean the problem of the claims made by the Yugoslavs for captured property in zone A of Venezia Giulia.

Of late, the Ministry of Foreign Affairs received more and more frequent news from which it has been possible to ascertain:

1) that in Trieste a Yugoslav Military Commission for War Booty is operating (Yugoslav War Booty Commission); among other things, it is to locate and make the inventory of the materials and manufactured products belonging to the Italian Navy or private Concerns;

2) That a Commission, the War Booty Commission, composed of an equal number of British, American and Yugoslavs, has been formed in Trieste to examine the Yugoslav requests and make the relative allocations to Yugoslavia as war booty;

3) that Yugoslav claims strike in a particular way the 'Cantieri Riuniti dell'Adriatico', the greatest industrial concern in Venezia Giulia, that employs 18.000 workers: some units (including the steamer 'Tennoia Gennari' have already been raised by the Yugoslav Authorities; several crafts have already been allocated to the Yugoslav navy by the above mentioned Commission;(para 2); besides, numerous units (including 4 motor-crafts, 3 towboats, 6 mine sweepers, 2 tankers of 9.000 tons, etc.) and plenty of material of various kind have been claimed but not yet acknowledged as war booty in favour of Yugoslavia;

4) that because of the activity of the War Booty Committee and of the Yugoslav claims, a few merchant ships which were being repaired by the C.R.D.A. have been held up; this prevented the starting of the work planned by the shipowners and new orders being sent to the Navy yards for the clients feared that the materials they order may be blocked any time as war booty;

3) that Yugoslav claims strike in a particular way the 'Cantieri Riuniti dell'Adriatico', the greatest industrial concern in Venezia Giulia, that employs 18.000 workers: some units (including the steamer 'Tenacia Gennari' have already been raised by the Yugoslav Authorities; several crafts have already been allocated to the Yugoslav navy by the above mentioned Commission;(para 2); besides, numerous units (including 4 motor-rafts, 3 tow-boats, 6 mine sweepers, 2 tankers of 9.000 tons, etc.) and plenty of material of various kind have been claimed but not yet acknowledged as war booty in favour of Yugoslavia;

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5) that all materials belonging to the Ilva Plant of Trieste, whether raw materials, manufactured or half-worked products, have been blocked over since October 10th, by order of A.M.G. and cannot be sent off. It is true that the Allied started that the blockade hadn't been ordered on the request of the Yugoslav Authorities, but it is also true that the A.M.G. asked the Ilva to supply proofs about the origin (Italian or German) of the materials in question, this obviously to decide about a corresponding Yugoslav claim;

6) that the War Booty Engineering Commission of the XIII Corps informed on November 6th the Magazzini Generali of Trieste that all material belonging to the Engineers Corps, and of enemy origin, existing in the said Magazzini Generali, was declared to be Yugoslav property and therefore blockaded;

5095

7) that Yugoslav claims aim at striking other private Companies of the region as well, where goods have been blockaded in the same way, and went as far as to make the inventory of the few pieces of furniture left by the Germans in a few private houses they occupied and part of the furniture of the Palazzo di Giustizia of the town of Trieste.

396

Admiral Stone, A.C.M.R.
Allied Commission
R O M E.

MEDC COMM DIST - 21 JAN 46
ACTION - MEDC. Commr.
INFO - CHIEF Commr.
Econ Sec
GA Sec
Polad (A)
Polad (B)

Declassified E.O. 12356 Section 3.3/NND No. 791256

Declassified E.O. 12356 Section 3.3/NND No. 785176

This question has already been raised - for some specific cases - with the Allied Commission (I refer for instance to memo 6/4465/2048, of November 10th, about the units of the Italian fleet either afloat or sunk in the Trieste harbour), but this Ministry hasn't yet received any answer on this matter.

I want to explain this question under its general aspects, and I appeal to you, my dear Admiral, to obtain that the Italian point of view be kept in mind in the decisions which will have to be taken.

According to a communique, lately published in the papers, of the War Booty Committee operating in Venezia Giulia, the material in question is 'chiefly material imported by the enemy and is not part of the local industrial and economic outfit'. On such matter, I take the liberty of observing;

a) that the communique itself doesn't exclude that among the things to be allocated or that have already been allocated to Yugoslavia, some are not German;

b) that among such goods as were formerly imported from Germany, a difference must be made among those that are without any doubt classified as 'enemy' and those which on the contrary legitimately became Italian property and must therefore be treated in the same way as all the others that belong to physical or juridical Italian persons;

c) that war booty right cannot be exercised after concluding of the armistice, above all if military occupation took place after the armistice itself. Now - Yugoslavia being a United Nation, and the Armistice Agreement between Italy and all the United Nations, being in force, also for those for which the Convention itself was stipulated by the Allies - the Yugoslav claim to exercise war booty rights in Italian territories occupied by Yugoslav armed forces has no foundation;

d) that such a pretence is even more unfounded for what concerns the town of Trieste, and zone A. i.e. territories occupied by the allied Forces and not by the Yugoslav ones; the fact that the latter occupied such territories first cannot give them the right in question, for the occupation (May 1945) took place a long time after the armistice between Italy and the United Nations (september 1943).

e) that in para 6) of the Morgan-Jovanovic agreement made in Belgrade on June 9th, 1945, in relation with the temporary military administration of Venezia Giulia a pledge from the Yugoslav Government property seized or requisitioned from Italian citizens is foreseen, which implicitely excludes the possibility for Yugoslavia to exercise war booty rights after the passage of zone A from Yugoslav to allied occupation.

d) that such a pretence is even more unfounded for what concerns the town of Trieste, and zone A. i.e. territories occupied by the allied Forces and not by the Yugoslav ones; the fact that the latter occupied such territories first cannot give them the right in question, for the occupation (May 1945) took place a long time after the armistice between Italy and the United Nations (september 1943).

e) that in para 6) of the Morgan-Jovanovic agreement made in Belgrade on June 9th, 1945, in relation with the temporary military administration of Venezia Giulia a pledge from the Yugoslav Government property seized or requisitioned from Italian citizens is foreseen, which implicitely excludes the possibility for Yugoslavia to exercise war booty rights after the passage of zone A from Yugoslav to allied occupation.

To juridical arguments, we must add economic ones. You, my dear Admiral, who follow so closely all the happenings of Italy's present economic life, cannot but see that the removal of material which threatens the industries of Venezia Giulia would seriously damage the economic organization as well as all the working class of the region. The materials cannot be easily replaced, and this would prevent or greatly hamper the resumption or the carrying out of work in the plants.

Should the seizing actually take place, we will be faced with new Yugoslav abuses to be added to the series of infortunate happenings and the long list of victims which marked the life of this region during the last year; but the fact that new abuses would be taking place on this side of the Morgan line would be particularly painful to the Italians, whose trust and hope were in the great Democracies in difficult times.

I trust, my dear Admiral, that you will fully realize the Italian point of view and give your full attention to this matter; I also trust that whatever information you are able to give me will help to calm the just fears of the Country.

/s/ De Gasperi.

503.

Declassified E.O. 12356 Section 3.3/NND No. 791256