

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

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

10000/105/838

DEFASCISM, PROPOSED LEGISLATION, LEGIS-  
LATION POLICY  
OCT., NOV. 1944

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TRANSLATION NO. 298

THE HIGH COMMISSIONER FOR SANCTIONS AGAINST FASCISM

Palazzo del Viminale  
ROME, 11 November 1944

17 NOV. 1944

File No. 21 A.G./1439  
Reply to letter of 15 October 1944  
File No. D 7/5 A/CA-2752

SUBJECT: Regulations of the High Commissariat for Sanctions against  
Fascism.

Dear General,

In reference to your letter of 18 I communicate that the Lt. General's legislative decree No. 238 of 3 October 1944, concerning the regulations of the High Commissariat, published in the Official Gazette, No. 67 of 18 October, contains rules for the execution of the legislative decree No. 159 of 27 July 1944, issued by the High Commissariat. These rules, however, do not bring any modification to the said decree No. 159.

For this reason we did not deem it advisable to give notice of it to the Allied Commission before.

The provision of art. 3 of legislative decree No. 238 of 3 October 1944 applies to art. 40 of legislative decree No. 159 of 27 July 1944 (by which the High Commissioner is given power to request for substitutes, officials, the carabinieri, agents of Public Safety and of the Finance Guard) stating merely that the aforementioned are assigned to the High Commissariat in position of command.

With this provision the juridical position of the above-mentioned personnel was established.

I wish to assure you moreover that I shall request for those

SUBJECT: Regulations of the High Commissariat for Sanctions against

Fascism.

Dear General,

In reference to your letter of 12 last I communicate that the Lt. General's legislative Decree No. 208 of 3 October 1944, concerning the Regulations of the High Commissariat, published in the Official Gazette, No. 57 of 12 October, contains rules for the execution of the legislative decree No. 159 of 27 July 1944, issued by the High Commissariat. These rules, however, do not bring any modification to the said decree No. 159.

For this reason we did not deem it advisable to give notice of it to the Allied Commission before.

The provision of art. 3 of legislative decree No. 235 of 3 October 1944 applies to art. 40 of legislative Decree No. 189 of 27 July 1944 (by which the High Commissioner is given power to request for assistants, officials, the carabinieri, agents of Public Safety and of the Finance Guard) stating merely that the aforementioned are assigned to the High Commissariat in position of command.

With this provision the juridical position of the above-mentioned personnel was established.

I wish to assure you moreover that I shall request for those administrators and carabinieri who are strictly indispensable to my office, and that the Allied Commission will be consulted before any legislative measure relative to the sanctions against fascism will be issued.

/s/ Sforza 50.0

TO: BRIGADIER GENERAL G.R. UPJOHN  
Vice-President of the Allied Commission  
Administrative Section  
R C V Z

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HEADQUARTERS  
ALLIED CONTROL COMMISSION  
APO 394  
GA SECTION

*File*  
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DE/SA/GA

18 Oct 44

SUBJECT : Defascism Legislation, Policy.  
TO : The High Commissioner for Sanctions  
against Fascism.

- 1 I notice that in Gazette No 67 there is published DL 238 of 3 Oct which deals with the organization of the staff of your High Commission. This decree was published without consultation with ACC. While the decree is mostly concerned with matters of detail entirely domestic to the Italian Government there is nevertheless matter which impinges on other spheres not entirely domestic. For instance, in Art 3 the High Commissioner can assign personnel of the Carabinieri for use by the High Commission. I do not doubt that this power will be used quite reasonably but I would point out that there is no limit to the number which can be transferred and it is quite possible, though perhaps not probable, that transfers might embarrass the CC FR in which case we are concerned. Similarly with the power to transfer judges.
- 2 I do not doubt that the decision that the decree need not be submitted to ACC, as ACC was not concerned, was made in perfect good faith, but this decision implies that the function of deciding what does not interest ACC is in the hands of the Italian Government. A proposition to which ACC cannot assent.
- 3 ACC under the Armistice terms has a responsibility with regard to Defascising and I must ask you to be good enough to ensure that ACC is consulted before publication of any decree which deals with, or is concerned however remotely, with fascism or fascist organisations.

Ext. 525  
SHE/ia

G. R. UNGER Brig.  
V.P. GA Section

RE Count Carlo SPORZA  
Alto Commissario per le Sanzioni  
contro il Fascismo,  
Palazzo del Viminale  
R. O. M. A.

50.6



Mio caro Generale,

In relazione alla Sua del 16 ottobre scorso le comunico che il decreto legislativo numero 238, sull'ordinamento dell'Alto Commissariato, pubblicato nella Gazzetta Ufficiale, n° 57, in data 12 stesso mese, contiene norme per l'esecuzione del decreto legislativo 27 luglio 1944, n° 159, inteso dall'Alto Commissariato. Tali norme pertanto non recano alcuna modificazione al decreto predetto, n° 159.

Per tale motivo non si ritenne darne notizia preventiva alla Commissione Alleata.

Quanto alla disposizione dell'art. 3 del decreto legislativo 3 ottobre 1944, n° 238, essa richiama l'art. 40 del decreto legislativo 27 luglio 1944, n° 159, (il quale dà facoltà all'Alto Commissario di richiedere magistrati, funzionari, personale dei carabinieri, della pubblica sicurezza e della Guardia di Finanza) limitandosi a precisare che gli stessi vengono assegnati all'Alto Commissariato nella posizione di comando.

Con tale disposizione si è voluto soltanto definire la posizione giuridica dei personali predetti.

Le assicuro, per il mio ufficio magistrati e carabinieri, nei limiti strettamente indispensabili, e che la Commissione Alleata sarà, previamente e tempestivamente, consultata su qualsiasi provvedimento legislativo relativo alle sanzioni contro il fascismo, che potrà essere emanato.

Al Brig. Generale G. R. U P J O H N  
Vice Presidente della Commissione Alleata  
Sezione Amministrativa

R C M A

*Forza 50.7.44*  
*Scrive per int. Am*  
*Stile non vuol -*  
*OT-*

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