

1590

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

785017

ACC

10000/104/503

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

785017

10000/109/503

ALLIED MILITARY COURTS
NOV. 1944 - JAN. 1947

785017

Legal

14-6-11
22.
you please draft reply W. Thompson 26.1

A. Executive Commission

Drafted reply has just come in. I have refused it but will submit new letter to-day
19 April
W. Thompson 26.1 CAS

25.

C.S.O.

Attached letter (see folio 24) is submitted for signature.

File 827/EC Hinkle 34 (1) refers.

11.

1.8.45

27.

Ex. Com.

26 for inf. W. Thompson 27/12/40

30.

Ex. Com.

Folio 29 for inf. W. Thompson 20/12.

3373

C.L.A.

31.

I am not entirely satisfied. Why was the P.B.S. Officer placed in charge of the Court - & by whom? How many cases were tried by A.D.C. Court in November. W. Thompson

C.S.O.

Attached letter (see folio 24) is submitted for signature.

File 827/EC Hinkle 34 (1) refers.

J.H.

1.8.45

22.

C.S.O.

F. 26 for inf.

W. 7/12/45
1.8.45

30.

C.S.O.

Folio 24 for inf.

W. 20/12

3373

C.L.A.

31.

I am extremely satisfied. Why was the

P.B.S. Office placed in charge of the Court - & by whom? How many cases were tried by

ADIC Court - November.

W. 20/12

Ex. Com.

-32-

Clarifying misunderstanding in memo. 29
20 Dec. 1945, it should have read that Post Court became
inactive when Lt. Col. Claire went home, pending the placing
of another officer in charge. However, since 18 Dec. 45 all
cases have been referred to Italian Courts. No A.M.G. Court
cases were tried in Naples during November.
W. 20/12/45 Major C. H. Hargrave

W. 20/12

W. 20/12

785017

A/COS

4 in answer to 3. Action on 4 being
taken by C. A. Section;

Encl. 10/11

13/11 noted 2

7

C50

You should see 6 if you have not already done so.

15/11

See 15/11

8.

Capt. Mueller

6 seen - but did S. Reppin get a copy?

Encl.

16/11

Copy of letter to
Southern Region
at 9/10

15

3372

Pd

C50 Col.

11-14 From PM protests against the establishment
of AMG Court at Bari. Letter from C.C. at 6 refers.
Legal SC intends to by-pass some of the work of
the AMG Court to the Italian judiciary in order
to see what kind of a job they make of it & if
their claims of increased efficiency are substantiated.
It is not intended to give an immediate
reply to this letter.

Sp

1595

785017

Encl. 2
10/11

13/11 moved 2

CSO 7

You should see 6 if you have not already done so.

15/11

See 8 15/11

[Signature]

8.

Capa Mucchi

6 seen - but did S. Regan get a copy?

Encl

16/11

Copy of letter to
Southern Region
at 9.10

15

3372

PH

CSO Col.

11-14 from PM protests against the establishment of AMG Court at Bari. Letter from CC. at 6 refers. Legal SC intends to by-pass some of the work of the AMG Court to the Italian judiciary in order to see what kind of a job they make of it & if their claims of increased efficiency are substantiated. It is not intended to give an immediate reply to this letter.

8 Jan 45

~~Document to be sent to...~~

[Signature]

481

77x/61

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

785017

1008
EX 74287
JAN. 141047

JAN 14 1947 5/
H/9118
JAN. 141630
IMPORTANT.

AFHQ SIGNED CONGRUENT GITE RAJAG
ACTION: HQ ALLIED COMMISSION ROSE.
INFO: SHQ COM.

SECRET.

~~SECRET~~
BRITISH AUTHORITIES WILL TRY GERMAN GENERAL KESSELRING.
CHARGED WITH ORGANIZING ATROCITIES AGAINST ITALIAN NATIONALS. TRIAL
WILL TAKE PLACE IN OR NEAR VENICE ON OR ABOUT 10 FEBRUARY 1947.

REQUEST THE ITALIAN AUTHORITIES BE INVITED TO NOMINATE AN
ITALIAN OFFICER TO ATTEND TRIAL AS OBSERVER.

REQUEST JUDGE ADVOCATE BE INFORMED OF NAME AND PARTICULARS OF
THE SELECTED OFFICER AT THE EARLIEST PRACTICABLE DATE.

SECRET.

AC. DIST

ACT: ~~LEGAL~~ P. Safety.

INFO: C. COM.

EX. COM.

~~P. SAFETY~~ Legal.

FILE.

3371
SKELETON.

JV 16/1

Capt V

104

785017

1008 41
~~CONFIDENTIAL~~

AG3/00416

DEC 9 1946
H/8402

DEC 081500

ROUTINE

GHQ CMP

ACSEC HQ ALCOM INFO HQ RAAC (BE)

CONFIDENTIAL

Ardeatine case. Accused are pressing for statement from following for inclusion in petitions.

1. Capt Bossi Fredirigotti. One time (?) head of German broadcasting station in Rome. Now believed in Bunico South Tyrol. To state that warning was broadcast to civil population of consequences of outrages prior to bomb outrage in Via Rassella on 24 March 44.

2. At trial of Koch in Milan on 28 June 46 witness Blasi Guglielmo said Via Rassella bomb outrage instigated by Italian partisan leader Togliatti. Statement of Blasi required. If statement obtained forward fastest to HQ RAAC.

AC DIST

ACTION : SECURITY 2

INFO: CHIEF COMMISSIONER

EX COMMISSIONER

FILE

SKELETON

3370

~~CONFIDENTIAL~~

DEC 8 - 1946

Trv 9/12
Capt V

1593

785017

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

AG 3895
RFP

1008
~~SECRET~~

NOV 18 1946
H/7934 140

NOV 16 1946

IMMEDIATE

GHQ CMF
ACTION - RAAC (BE) - INFO - AFHQ HQ ALCOM

SECRET

ARDEATINE CASE.

1. TEXT OF AFHQ CABLE T93175 OF 12. QUOTE FOREIGN OFFICE HAS INFORMED BRIT POLAD THAT FAR OFFICE AND JAG AGREE ITALIAN REPRESENTATIVE SHALL SIT ON BENCH AS OBSERVER BUT WITHOUT POWER TO VOTE OR SPEAK AND ASK FOR ARRANGEMENTS TO BE MADE ACCORDINGLY. UNQUOTE.
2. REQUEST YOU MAKE PROVISION FOR COL DEL PRATO ITALIAN OFFICIAL OBSERVER AND COL JAMES NOTESTEIN US ARMY OFFICIAL TO SIT ON BENCH UNDER CONDITIONS AS IN ONE. MR STIRLING JUDGE ADVOCATE WILL ADVISE ON DETAILS OF PROCEDURE.
3. ALCOM LETTER SD/166.01-13 DATED 5 NOV AND AFHQ G5 CABLE 666391 OF 8 NOV REFER.

48

A C DIST

INFO ACT: C COMM

INFO: EX COMM

FILE

SKELETON

SECURITY (2)

POLAD A

POLAD B

3369

NOV 16 1946

~~SECRET~~

Capt V

hoy
15/11/46

1599

785017

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

1008

CONFIDENTIAL

NOV 7 1946

48

HEADQUARTERS ALLIED COMMISSION
A.P.O. 794
PUBLIC SAFETY DIVISION
SECURITY SUB DIVISION

REF : D/266.01-159

5 November 1946

SUBJECT : War Crimes : ARDEATINE Caves Massacre

TO : A Branch, CHQ, COMF

1. Reference your signal AG 02050 and in confirmation of this HQ signal 5393.

2. Col. DEL PRATO of the Military Legal Department, Ministry of War, has been nominated to act as official Italian observer at the trial of Generals von MACKENSEN and MARITZER. This officer will be accompanied by an interpreter, 3/Lieut. BORGOMANERO.

FOR THE CHIEF COMMISSIONER:

B.J. Eys
B.J. EYS,
Colonel,
Director,
Public Safety Division.

AMC/nb

Copy to:- Chief Commissioner
Executive Commissioner.
HQ RANG (BB)

3368

Capt V

PA 7 Nov. 22

10089.

CONFIDENTIAL

HEADQUARTERS
ROME AIRFA ALLIED COMMAND

SUBJECT : War Crimes - Arlecantine Caves

TO : GHQ, GAF (5 copies)
HQ 3 District (2 copies)

OCT 25 1946

24 Oct 46

With reference to GHQ, GAF letter 16203/43 of 16 Oct 46.

1. It has been confirmed to HQ GHQ, GAF that 18 Nov 46 is a suitable date for commencing the trial. This Headquarters AG926 of 19 Oct refers.

2. A court room has been selected in the Old University of Rome (La Sapienza) M.R. Rome Town Plan (South) 734672 and the President of the Council of Ministers of the Italian Government has placed the whole building entirely at our disposal W.C.F. 11 Nov 46.

Plans and lay out are attached. Any alterations can readily be made as the President may direct. Appendices A, B, & C.

In seeking the accommodation due regard to the dignity of the proceedings was paid as also to the safety of the accused. The attached operation order gives details as far as they can at present be decided. Appendix D.

The court should hold about 80 of the general public. It is not recommended that this number should be exceeded. The greater the number the more difficult is search and control. A plan for restricting and deciding admittance is being worked out.

Reservation will be made for notable visitors apart from the general public.

3. 56 Rest Camp is nominated as the unit to which the accused and witnesses will be attached. This O.C. is also Governor Military Prison. This information has already been signalled to you. This Headquarters AG 942 of 15 Oct refers.

4. Defending Officers are not yet available but the charges will be explained to the accused when the opportunity offers.

5. Witnesses ALLIEMELLO, PRESPI and SPAMATO have been traced 3367 steps taken to ensure their attendance.

6. The only suitable places of confinement for the accused are the buildings vacated by 32 Military Prison about M.R. 803666 or at 56 Rest Camp Guard Room about M.R. 796703. In either case they can be accommodated with sufficient amenities to ensure that they have the fullest opportunity to prepare their defence.

7. Similarly other witnesses who are in confinement may be accommodated at either of these two places mentioned in para 6. The first choice being 32 Military Prison.

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

785017

TO : GHO, C.M. (5 copies)
H.R. & District (2 copies)

with reference to GHO, C.M. letter 16203/43 of 16 Oct 46.

1. It has been confirmed to H.R. C.M. that 18 Nov 46 is a suitable date for commencing the trial. This Headquarters AG926 of 19 Oct refers.
2. A court room has been selected in the Old University of Rome (La Sapienza) S.R. Rome Town Plan (South) 734672 and the President of the Council of Ministers of the Italian Government has placed the whole building entirely at our disposal V.C.F. 14 Nov 46.

Plans and lay out are attached. Any alterations can readily be made as the President may direct. Appendices A, B, & C.

In seeking the accommodation due regard to the dignity of the proceedings was paid as also to the safety of the accused. The attached operation order gives details as far as they can at present be decided. Appendix D.

The court should hold about 80 of the general public. It is not recommended that this number should be exceeded. The greater the number the more difficult is control and control. A plan for restricting and allowing admittance is being worked out.

Reservation will be made for notable visitors apart from the general public.

3. 56 Rest Camp is nominated as the unit to which the accused and witnesses will be attached. This C.C. is also Governor Military Prison. This information has already been signalled to you. This Headquarters AG 912 of 15 Oct refers.

4. Defending Officers are not yet available but the charges will be explained to the accused when the opportunity offers.

5. Witnesses ALI-MULLO, MESTI and SEMINATO have been traced B367 steps taken to ensure their attendance.

6. The only suitable places of confinement for the accused are the buildings vacated by 32 Military Prison about M.R. 803686 or at 56 Rest Camp Guard Room about M.R. 796703. In either case they can be accommodated with sufficient amenities to ensure that they have the fullest opportunity to prepare their defence.

7. Similarly other witnesses who are in confinement may be accommodated at either of these two places mentioned in para 6. The first choice being 32 Military Prison.

8. Two suitable covered vehicles are held which can be used to transport accused and prisoner witnesses, in addition to which G.C.C. 3 District promises supply up to four armoured cars. This will put "prisoner" transport on a satisfactory basis.

juv
(CAPT V)

...../2.

186

-2-

9. Accommodation for reference witnesses can be arranged when their kinds and categories are known.

10. 10 Rooms have been reserved at the Grand Hotel Rome for Major-General Playfair and for members of the court, J.A., Prosecutor and British Defending Officers W.C.F. 10 Nov. Earlier date can be fixed if required.

Other officials can be suitably accommodated when their ranks are known.

11. Interpreters are being arranged and those employed for the Bon's Case are being contacted. More can be reported on this subject later.

12. Owing to the greatly increased correspondence which this case is bound to cause the very small staff of this Headquarters it is requested that a suitable staff officer, not less than Major, be appointed. His duties would be to deal with all correspondence concerning the case before the trial and to act as O I/O all arrangements at the court during the trial including the duties of Marshall of the Court. G.O.C. 3 District agree on the necessity for this officer, whose early arrival is requested.

13. It would be appreciated if any information and experience gained from previous courts could be passed to this HQ. Such matters as care of prisoners, avoidance of suicide, screening and control of the general public are a few of the items about which some knowledge has doubtless been gained.

14. Application for 3 VLF cars has been made to 'O' GHQ, CEF. These vehicles will be required for the use of the several senior officers and important persons who will be attending the trial.

S.O. TULLIN
Lt-Col
Commanding
British Troops in Rome

DISTRIBUTION

Commander R.A.A.C.
Chief Commissioner Allied Commission
Executive Commissioner Allied Commission
Public Safety Officer Allied Commission
O.C. 56 Rest Camp
PA, R.A.A.C.
OC 2 Field Hospital
1st Branch R.A.A.C.
1st Branch R.A.A.C.
Town Major
Garrison Engineer
File

1+
1
1
1+
2
1+
1
1
1
1+
1+
1+

3368

Other officials can be suitably accommodated when their needs are known.

11. Interpreters are being arranged and those employed for the Banks case are being contacted. More can be reported on this subject later.

12. Owing to the greatly increased correspondence which this case is bound to cause the very small staff of this headquarters it is requested that a suitable staff officer, not less than major, be appointed. His duties would be to deal with all correspondence concerning the case before the trial and to act as O I/C all arrangements at the court during the trial including the duties of Marshall of the Court. G.O.C. 3 District agrees on the necessity for this officer, whose early arrival is requested.

13. It would be appreciated if any information and experiences gained from previous courts could be passed to this HQ. Such matters as care of prisoners, avoidance of suicide, sentencing and control of the general public are a few of the items about which some knowledge has doubtless been gained.

14. Application for 3 VIN cars has been made to 'A' GHQ, CEF. These vehicles will be required for the use of the several senior officers and important persons who will be attending the trial.

W. J. Gordon

S.O. TOLIN
Lt-Col
Commanding
British Troops in ROME

DISTRIBUTION

Commander R.A.A.C.
Chief Commissioner Allied Commission
Executive Commissioner Allied Commission
Public Safety Officer Allied Commission
O.C. 56 Rest Camp
A.B., R.A.A.C.
O.C. 2 Field Hospital
O.C. Branch R.A.A.C.
O.C. Branch R.A.A.C.
Team Major
Garrison Engineer
File

1+
1
1
1+
2
1+
1
1
1
1+
1+
4+

+ : with appendices

3368

785017

1603

CONFIDENTIAL

ADVANCE ORDER. ARDENNE CAVES. LIAISON

by

Lieutenant-Colonel TOLLIN ONE MC
Commanding British Troops ROE

24 Oct 46

1. INFORMATION The trial of Colonel-General Von Mackensen and Lieutenant-General Meltzer for war crimes will take place in ROE commencing 18 Nov 46.

Commander British Troops ROE is responsible for all administrative matters concerning the trial and for the safety and proper keeping of the members of the court, witnesses and accused.

2. INTENTION To take all administrative and precautionary measures in accordance with instructions and information received to date.

3. METHOD

(a) Place of Trial The trial will take place in the Old University of ROE (Le Sapientia) M.R. 734672.

(b) Accommodation-- Prison The accused will be accommodated in a wing of the barracks lately occupied by 32 Military Prison M.R. 803606. O.G. 56 Rest Camp (Lt-Col LONG), in his capacity as Governor Military Prison, will be responsible for the safekeeping of the accused and will take over them over at the prison door.

Witnesses who are serving sentence or are otherwise in confinement will be accommodated suitably in 32 Military Prison and similarly handled and taken over.

Governor Military Prison will ensure that the arrangements he makes will afford to the accused all proper measures to assist them to prepare their defense.

External guarding of the prison will be the duty of the Governor Military Prison.

(c) Security AEM (Lt-Col BOND) will be responsible for all security from the prison door outwards, less the guarding of the prison itself. This includes the conveying of the accused and prisoner witnesses to and from the court and their safekeeping at all times until handed over to the Governor Military Prison.

In addition to his own resources the AEM will be allotted two plns, two covered vans from 56 Rest Camp and expected armoured cars from 3 District.

AEM will decide upon any RE work needed for security and inform GE

(A) Health of Accused O.G. No 2 Field Hospital will be responsible for the health of the accused and witnesses while they are in ROE.

INTRODUCTION The trial of Colonel-General Von Mackensen and Lieutenant-General Meltzer for war crimes will take place in ROME commencing 18 Nov 46.

Commander British Troops ROME is responsible for all administrative matters concerning the trial and for the safety and proper keeping of the members of the court, witnesses and accused.

2. INTENTION To take all administrative and precautionary measures in accordance with instructions and information received to date.

3. METHOD

(a) Place of Trial The trial will take place in the Old University of ROME (La Sapienza) M.R. 734672.

(b) Accommodation--Prison The accused will be accommodated in a wing of the barracks lately occupied by 32 Military Prison M.R. 803606. O.C. 56 Rest Camp (Lt-Col LONG), in his capacity as Governor Military Prison, will be responsible for the safekeeping of the accused and will take care to hand them over at the prison door.

Witnesses who are serving sentence or are otherwise in confinement will be accommodated suitably in 32 Military Prison and similarly handled and taken over.

Governor Military Prison will ensure that the arrangements he makes will afford to the accused all proper measures to assist them to prepare their defence.

External guarding of the prison will be the duty of the Governor Military Prison.

(c) Security AFM (Lt-Col HOND) will be responsible for all security from the prison door outwards, less the guarding of the prison itself. This includes the conveying of the accused and prisoner witnesses to and from the court and their safekeeping at all times until handed over to the Governor Military Prison.

In addition to his own resources the AFM will be allotted two platoons, two covered vans from 56 Rest Camp and expected armoured cars from 3 District.

AFM will decide upon any RE work needed for security and inform CE

(d) Health of Accused O.C. No 2 Field Hospital will be responsible for the health of the accused and witnesses while they are in ROME.

He will take special measures for the safety of the accused and in conjunction with AFM will carry out all precautions necessary, particularly against attempted suicide.

...../. He will arrange

1606

785017

44

He will arrange for the daily "fitness for trial" examination of accused.

- (e) Plans Plans of the court are attached. They show the present lay-out, and admit of considerable additions and amendments as the President may direct.
- (f) Marshall of the Court A staff officer will be appointed later from outside or within this command. His duties will be to act as Marshall of the Court and Officer I/C of all matters as the Court Buildings (less security of confined persons) while the trial is on.

4. ADMINISTRATION

- (a) Officer Commanding O.C. 56 Rest Camp will be Officer Commandir for accused and all persons attached for the period of the tri.
- (b) RE Work GE will prepare plans of the court and accommodations to be used. In addition he will decide upon RE work needed for administrative purposes and advise upon and carry out work as requested by AEM for security.
- (c) Staff Officer The officer to deal with correspondence now is DLM & QM of R.A.M.C. (Major KELLY). Later a special officer may be appointed. If so, this staff officer will be Marshall of the Court and other duties as at para 3 (f)
- (d) Accommodation - Normal The Town Major ROME will allot, accommodation for members of the court, other officials and observers, witnesses and military personnel according to information supplied to him by this Headquarters.
- (e) Communications All communications to HQ R.A.M.C. (British)

S.C. Tomlin
 S.C. TOMLIN
 Lt-Col
 Commanding
 British Troops ROME

3363

DISTRIBUTION

1st Branch R.A.M.C.	1
2nd Branch R.A.M.C.	1
OC 56 Rest Camp	2
2 Field Hospital	1
APM	2
Town Major ROME	1
Garrison Engineer	1
CHQ, C.A.F	5
3 District	2
Allied Commission	3
File	4
Spare	4

from outside or within this command. His duties will be to act as Marshall of the Court and Officer I/C of all matters as the Court Buildings (less security of confined persons) while the trial is on.

ADMINISTRATION

- (a) Officer Commanding O.S. 56 Rest Camp will be Officer Commanding for accused and all persons attached for the period of the trial.
- (b) RE Work GE will prepare plans of the court and accommodations to be used. In addition he will decide upon RE work needed for administrative purposes and advise upon and carry out work as requested by AFM for security.
- (c) Staff Officer The officer to deal with correspondence now is D.M. & MG of R.A.M.C. (Major KELLY). Later a special officer may be appointed. If so, this staff officer will be Marshall of the Court and other duties as at para 3 (f)
- (d) Accommodation - Normal The Town Major ROME will allot accommodation for members of the court, other officials and observers, witnesses and military personnel according to information supplied to him by this Headquarters.
- (e) Communications all communications to HQ R.A.M.C. (British)

S.C. TWIN

S.C. TWIN
Lt-Col
Commanding
British Troops ROME
3364

DISTRIBUTION

1st Branch R.A.M.C.	1
2nd Branch R.A.M.C.	1
OC 56 Rest Camp	2
2 Field Hospital	1
APM	2
Town Major ROME	1
Garrison Engineer	1
CHQ, C.A.F.	5
3 District	2
Allied Commission	3
File	4
Spare	4

785017

1807

4608

785017

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

1008 ✓

43

OCT 21 1946
21 October 1946

Ref: SD/266.01-1/AG

My Dear Doctor Prunas,

I acknowledge with thanks receipt of your letter No. 33140/77 dated 4 October 1946 on the subject of allowing Italian Magistrates to sit on the tribunal arranged for the trial of German Officers in connection with the Ardeantine Cave case.

This letter has been referred to the Allied Force Headquarters and I shall be pleased to inform you in due course of the decision made regarding this matter.

Yours truly,

/s/ Ellery W. Stone
ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Doctor Renato Prunas,
Ministry of Foreign Affairs,
Italian Government,
ROME.

3363

G. M. M.
(J/cond m.m.)

27 Oct 46

Declassified E.O. 12356 Section 3.3/NND No. 785017

~~CONFIDENTIAL~~
1008
HEADQUARTERS ALLIED COMMISSION

APO 794

Office of the Executive Commissioner

42
OCT 15 1946

REF : D/266.01-139

14 October 1946

SUBJECT : War Crimes Trial - Ardeatine Caves Massacre

TO : Ministry of Grace and Justice

41
1. With reference to this Commission's letter of even number dated 5 October 1946.

2. It is now proposed to commence this trial on Monday, 18 November, 1946, and it will, therefore, be appreciated if your Ministry will expedite a reply to our above mentioned letter and if a plan of the suggested Court Room can be made available it will be of considerable assistance.

NR.
3. Referring to your letter UC/4583-2 dated 20 September 1946, I am instructed to ask if your Ministry will inform this Commission as soon as possible of the name of the representative appointed by your Government to act as official observer of the trial.

FOR THE CHIEF COMMISSIONER:

M. Carr

M. CARR,
Brigadier,
Executive Commissioner.

Copy to:- Executive Commissioner
Public Safety.

336 3362

1008 *Q*
HEADQUARTERS ALLIED COMMISSION

A P O 794

Office of the Executive Commissioner

EC 41
CONFIDENTIAL

S.D./266.01-139

5 October 1946

OCT 5 1946

SUBJECT : War Crimes Trial.

TO : Ministry of Peace and Justice.

1. With reference to this letter S.D./266.01-139 dated 30th Sept. regarding the forthcoming War Crimes Trial in Bonn - Executive Cases Measure:-

2. It would be greatly appreciated if a suitable Court Room can be placed provisionally at the disposal of the Allied Authorities in which the trial can be held.

The date of the opening of the trial will be communicated to your Ministry immediately it is known.

3. As this case will be of considerable public interest and feeling is likely to be very hostile to the accused, it will be necessary to make special arrangements to prevent possible disorders and demonstrations.

It would therefore be very helpful if the decision of your Ministry can be notified to this Commission as early as possible to enable the Policing arrangements to be taken up between the Ministry of Interior and the Allied Authorities.

FOR THE CHIEF COMMISSIONER

(y/cnac)

y. mac

MG

3361

M. GATEL, Brigadier
Executive Commissioner.

1008 40
HEADQUARTERS ALLIED COMMISSION

APO 794

Office of the Executive Commissioner

MAY 31 1946

MEETING HELD IN ROOM 35, THIRD FLOOR, HQ ALLIED COMMISSION
AT 1000 HRS. ON 29 MAY 1946.

In the Chair: Brigadier CARR.

Present: Mr. WESLEY JONES, Political Adviser (A)
Mr. A. HANFORD, Political Adviser (B)
Comdr. BATTAIN, Navy Sub-Commission.
Lt. Col. HANFORD, Legal Sub-Commission.
Lt. Comdr. DAVIES, Navy Sub-Commission.
Capt. A.W. KENSELY, Exec. Comm's Office.

The meeting had been called to discuss jurisdiction of Allied merchant seamen.

Brigadier CARR said he had been asked to preside as the Executive Commissioner was unable to be present. Owing to the short notice received he was not au fait with the latest situation.

Lt. Col. HANFORD stated that when he was in GENOA recently the two Consul Generals expressed the opinion that it was a police responsibility.

Brigadier CARR reviewed the background and read a memorandum from Chief Legal Adviser to the Political Adviser (B) and Lt. Col. HANFORD explained the procedure that had been adopted in the past.

There was discussion on the rights of merchant seamen in peacetime as compared to wartime.

Mr. WESLEY JONES cited the case of a seaman killing another seaman on land. A coastguard investigation had followed but no court martial resulted and the guilty man was returned to U.S.A. under escort but the U.S. Authorities could take no action as the crime was committed here. Had the crime been committed on board ship, the man would be subject to American law.

Lt. Col. HANFORD read an order from General WILSON dated 14 May 1944 and there was considerable discussion on this.

Brigadier CARR said the question arose as to whether a state of war still existed. Capt. KENSELY remarked that American Red Cross personnel were still subject to Military Law.

Mr. WESLEY JONES was of the opinion that the Second Article of War previously discussed no longer applied. It seemed to him that by the fact of restitution of territory American civilians must come under Italian jurisdiction except to the extent of the armistice terms. Lt. Col. HANFORD was not in agreement with this viewpoint. 3363

/cont. PA 3/69

HEADQUARTERS ALLIED COMMISSION

A P O 794

Office of the Executive Commissioner

Page 2.

Mr. HALFORD said there had been various legal opinions to the effect that British subjects were liable to Italian civil law. The complication was that merchant seamen had a special status.

Brigadier CAIR pointed out that although the Italian Government had taken over jurisdiction the Allies retained the right to set up AME Courts.

Lt. Col. HANNAFORD said it was necessary for a standard procedure to be adopted for all Allied merchant seamen and the French would not agree to their nationals being tried by Italian courts.

Mr. WESLEY JONES thought the obvious step was to put all merchant seamen under Italian jurisdiction. He would take up the question of validity of General WILSON's order with the State Department and Allied Force Headquarters.

Mr. HALFORD mentioned the problem of goods being brought into ITALY. This smuggling was reaching vast proportions and had in fact developed into more or less open trading. He did not agree with the opinion of the Consuls that it was a matter for the police because there were no courts available. Lt. Col. HANNAFORD said the Consuls were only looking at the immediate problem of arrest and the solution would be to have an AME Court and bring the offenders to trial. The trouble was that no officers were available for these courts.

Mr. HALFORD said that at present seamen walked off the ships past the customs and sold goods in the black market. Mr. WESLEY JONES stated there was a similar problem on the American side. Brigadier CAIR pointed out that if naval or military police were at the port the seamen could be searched.

Lt. Col. HANNAFORD said the setting up of a permanent court in GENOA would be in agreement with the Italian Government would solve the problem of trial but it was still necessary to provide police for the searching of seamen. Alternatively the ships themselves could carry police, which was not practical.

Mr. WESLEY JONES suggested that the only way to effect a cure was to remove the clause in the Armistice Terms protecting merchant seamen and make them subject to Italian law. Lt. Col. HANNAFORD said a decision of this nature would have to come from a very high level and that Political Advisers were the people to make such a recommendation.

Mr. HALFORD said the alternatives should be explained to higher authority: to let the present state of affairs continue, or that those powers under the Armistice Terms that protect Allied merchant seamen should be abrogated.

Lt. Col. HANNAFORD warned of the repercussions that would arise if merchant seamen were brought to trial, convicted and incarcerated in Italian jails. Agreement might be reached in respect of American and British seamen, but French, 3359

/cont.

HEADQUARTERS ALLIED COMMISSION

A P O 794

Office of the Executive Commissioner

Page 3.

Yugoslav and other Allied nationals were a problem. Brigadier CARR said a problem would arise with UICMA personnel; at the present time they were protected.

Brigadier CARR asked if there was enough data available to submit a letter to AFHQ. The question seemed academic. Political Advisers considered a letter should be sent to AFHQ so that they could follow up. Mr. WESLEY JONES said he would like to see a recommendation from Allied Commission that merchant seamen should be subject to Italian jurisdiction. Brigadier CARR wondered if the U.S. Government would agree to their nationals being arrested and tried by Italian law and imprisoned in Italian jails in their present unsatisfactory condition.

Brigadier CARR asked Lt. Col. HASTFORD to prepare a letter to AFHQ setting forth the alternative suggestions.

Mr. WESLEY JONES would inform Brigadier CARR of the reply received from the State Department in regard to General WILSON's order.

Alon W. Kennedy
ALAN W. KENNEDY,
Capt.
S.O.I.I.

Original Action 5606/EC "Port of Genoa"

3358

COPY

COPY

Ref. : 2604/EC

28 May 1946.

We have discussed from time to time the question of the subjection to Italian jurisdiction of Allied and other non-Italian civilian nationals. I refer to those who are not subject to military law by virtue of their being in Italy under military orders and so subject to the military law of their own country.

I have discussed it with the Commission's legal advisers and with the legal adviser of the British Embassy, as well as with other members of the Embassy.

The Allied Commission legal advisers point out that on no less than four occasions they, both British and US, have given their opinion "that civilian allied nationals who are (i) not subject to the military law of the Occupying Powers, or (ii) are not excluded under the Restoration Agreements, are within the jurisdiction of the Italian Courts and may be tried by them".

The argument that a country, e.g., Great Britain, is de jure still at war with Italy, makes no difference to this ruling. The facts are that Great Britain with her Allies have recognised the Italian Government as the legal government in co-belligerent Italy, pending the elections, and therefore must recognize her courts. It follows, therefore, that Allied nationals who are not subject to military law must be subject to the only other law in the land, viz., the Italian law.

The fact that those persons shown in parenthesis in paragraph 3 above are specifically mentioned in Clause 12 of the "Terms of Restoration" as not liable to trial by Italian Courts without SACMED's approval (and note that he can give such approval) points to the fact that other Allied civilian nationals are subject to Italian law.

I hope the above may help to clarify your mind, as it has mine.

/s/ H.S. BUSH

Brigadier Alban Low, CBE, RE,
Commander,
Headquarters,
Rome Area Allied Command.

Copy to CIA
: file 1008/EC

3357

COPY

COPY

HEADQUARTERS ALLIED COMMISSION
Office of Political Adviser(A)

May 17, 1946.

MEMORANDUM TO: Executive Commissioner

SUBJECT : Control of Allied Seamen in Italian Ports. *h*

I refer to your letter of April 25, 1946, File 5606/112/EC to Mr. Key enclosed copy of the Legal Adviser's views with respect to the status of British and American seamen in Italian ports.

The Department of State is pressing the Embassy for definite recommendation with respect to the jurisdiction over merchant seamen ashore. Since the Legal Sub-Commission's memorandum of April 18 is inconclusive, may I suggest that you call a meeting of the Legal Sub-Commission, the Polads, and if you consider it advisable, the Naval Sub-Commission to discuss this question further and resolve our views and recommendations.

/s/ J. Wesley
Political Adviser (A)

Original action file 5606/EC

3356

1616

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

785017

35

COPY

COPY

Ref. : 5606/122/EC

25 April 1946.

My dear Mr. Kay,

With further reference to my letter of 16 April, No. 5606/107/EC concerning smuggling and theft in the Port of Genoa.

I now enclose a copy of my Deputy Chief Legal Adviser's views on the matter and trust that this information will be of assistance.

Yours very truly,

/s/ H.S. LUSH

Brigadier,
Acting Chief Commissioner.

Mr. David McKay,
Chargé d'Affaires ad interim
United States Embassy,
Rome.

Cp to: Polad "A"
" B
Deputy Chief Legal Adviser } Minus enclosure

Original action file 5606/EC.

3355

HEADQUARTERS ALLIED COMBATANT
APO 394
LEGAL SUB-COMMISSION

M-S-M-O-R-A-N-D-U-M

/mda.

AC/4042/1.

18 April 1946.

SUBJECT : Status of British Merchant Seamen.

APR 18 1946

TO : Poland (B).

1. The status of merchant seamen, not only British, but of all nationalities, became, if not in theory, at least in practice more and more indefinite as the war went on.

2. While for instance American merchant seamen were treated by U.S. Naval Authorities as naval personnel falling under the jurisdiction of Court martials, British seamen still enjoyed peace time privileges. They fell under the jurisdiction of the British Court nearest to the place where the offence was committed. Seamen of other nationalities serving on Allied ships appeared to have escaped all jurisdiction other than that of Allied or neutral Courts, if and when they committed an offence within the jurisdiction of such Courts.

3. In Italy, local Courts lost jurisdiction over British seamen, owing to the state of war and Allied occupation. The situation arising from the numerous crimes committed by them became so acute, that, in agreement with the Royal Navy, it was decided that British merchant seamen would be tried by AMG Courts, and English law applied. This procedure was followed in Sicily and in Southern Italy with fairly satisfactory results.

4. Now that nearly the whole of Italian territory and all the ports have been restored to Italian administration English and Proclamation law cannot be applied any longer and in any case there are no Allied Courts to administer it.

5. The situation is therefore very intricate, and can see two solutions only to the problem:

- a) to establish one or more Special Allied Courts in the ports. Such Courts would have to apply Italian law to merchant seamen of all nationalities, as no other is operative in Italian territory;
- b) or to extend the jurisdiction of Italian Courts to Allied merchant seamen.

x legislation

3354.

6. Both methods are obviously inadequate. The shortage of legal officers make the first one a practical impossibility at present, Venezia-Giulia being the only reserve of qualified lawyers and no one can be spared.

7. The second solution would be technically the most satisfactory and ensure the return to the normal peace time practice. Politically it

SUBJECT : Status of British Merchant Seamen.

APR 18 1946

TO : Polad (B).

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

785017

1. The status of merchant seamen, not only British, but of all nationalities, became, if not in theory, at least in practice more and more indefinite as the war went on.

2. While for instance American merchant seamen were treated by U.S. Naval Authorities as naval personnel falling under the jurisdiction of Court martials, British seamen still enjoyed peace time privileges. They fell under the jurisdiction of the British Court nearest to the place where the offence was committed. Seamen of other nationalities serving on Allied ships appeared to have escaped all jurisdiction other than that of Allied or neutral Courts, if and when they committed an offence within the jurisdiction of such Courts.

3. In Italy, local Courts lost jurisdiction over British seamen, owing to the state of war and Allied occupation. The situation arising from the numerous crimes committed by them became so acute, that, in agreement with the Royal Navy, it was decided that British merchant seamen would be tried by AMG Courts, and English law applied. This procedure was followed in Sicily and in Southern Italy with fairly satisfactory results.

4. Now that nearly the whole of Italian territory and all the ports have been restored to Italian administration English and Proclamation law cannot be applied any longer and in any case there are no Allied Courts to administer it.

5. The situation is therefore very intricate, and can see two solutions only to the problem:

- a) to establish one or more Special Allied Courts in the ports. Such Courts would have to apply Italian law to merchant seamen of all nationalities, as no other is operative in Italian territory;
- b) or to extend the jurisdiction of Italian Courts to Allied merchant seamen.

4 legislation

3354.

6. Both methods are obviously inadequate. The shortage of legal officers make the first one a practical impossibility at present, Venezia-Giulia being the only reserve of qualified lawyers and no one can be spared.

7. The second solution would be technically the most satisfactory and ensure the return to the normal peace time practice. Politically it

over on file 1/5/46
15/46

33/

might be considered unadvisable and I feel certain that the French for instance and may be other Governments would not agree to their nationals being tried by Italian Courts and certainly not arrested by Italian Police.

8. The matter therefore is one of expediency, and legal consideration may very well have to be shelved in favour of ad hoc measures of a more practical nature.

9. No doubt you will wish to consult Polad A and other Allied representatives on the subject and let this Sub-Commission have your opinion.

G. S. Hammett

G.G. HAMMETT,
Lt. Colonel,
Deputy Chief Legal Advisor.

Copy to Executive Commissioner.
" " Polad (A).

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

785017

3353

Declassified E.O. 12356 Section 3.3/NND No. 785017

MEMORANDUM

TO : Executive Commissioner.

DEC 20 1945

1. Reference your memo attached hereto. (28)

2. 326 of the 331 cases referred to in Naples October report were tried by the Port Court which, consisted mostly of disciplinary measures against employees of P.D.S. As shown in the November report this Court was closed when Lt. Col. CLARK returned to the States. The November report, will also show that upon the reopening of the Legal Office at Naples this court was reopened under an officer from P.D.S. However these cases are gradually being shifted to Italian Courts and there will be no abrupt change in judicial procedure.

Anthony P. Nugent
ANTHONY P. NUGENT
Major,
Chief Counsel,
for Chief Legal Advisor.

19 December 1945.

See in 30 31 32.

3352

PA
12/1
E

(CSO)

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

785017

HEADQUARTERS ALLIED COMMISSION

APO 394

Office of the Executive Commissioner

28

C. L. A.

I advise that whereas in northern Region
 AFB courts have rightly practically ceased to
 function, in Naples no less than 331 cases
 were tried ^{in October}. Those there has been drastically
 reduced since that date. We do not want to
 see an abrupt change in judicial procedure
 in the hand over - rather an unnoticeable transfer.

A. L. A.

118/16/101

3351

1622

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

785017

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

1000 47
return in file for - f. Ex. Com.

[Signature] 26
4/12

AC/4002/L.

IS/rm.
3 December 1945.

SUBJECT : Sentences of Allied Military Courts.

DEC 5 1945

TO : The Minister of Pardon and Justice.

In connection with the eventual restoration of the Military Government territory to the Italian Government this Sub-Commission wishes to point out that all sentences rendered or to be rendered by Allied Military Courts in Italy will remain within the exclusive control of Allied authorities as provided by Art. 2 of RDL 11 February 1944 No. 31 and Art. 2 of D.L. 20 July 1944 No. 162. It is not proposed to modify the present procedure for revision of such sentences or for adjudication of petitions for pardon and conditional liberty in respect of such sentences agreed with your Ministry in Salerno (vide circular of Dir. Gen. Aff. Pen. Prot. No. 26013 of 24 April 1944) and confirmed in Rome (Letter Uff. Colleg. 7154/208, 3 Oct. 1944 of 3 Oct. 1944).

G.G. HANNAFORD,
Lt. Col.,
Deputy Chief Legal Advisor.

Copy to : Executive Commissioner
for information.

3350

see M. 27. 3349

PA
7/12

(50)

Declassified E.O. 12356 Section 3.3/NND No. 785017

Ref: 1008/24/EC.

2 August 1945.

SUBJECT: Report from A.C. Liaison Officer BARI.

TO : Ministry of Interior, Italian Government.

1. For your information the Allied Commission Liaison Officer at Bari reports that there were 208 cases of improper possession of Allied stores preferred in that area during June.

2. It may also be of interest to you to know that the value of U.D. property recovered during June was:

Taranto	- over 836,000 lire
Bari	- over 2,095,800 lire.

For the Chief Commissioner:

E. Talbot,

100m 1 1/2

Brigadier,
Executive Commissioner.

Copy to: 827/EC.

33425

PA
2/8

Declassified E.O. 12356 Section 3.3/NND No. 785017

SD/149.01

24 April 1945

SUBJECT : Security Cases Pending before AMG Courts.

TO : Commanding General,
Rome Area Allied Command.

The Chief Commissioner directs me to reply to your letter reference AG.374(G-2) G-44 dated 11 April 1945.

1. This Commission, in a letter reference SD 149.01/LVG dated 16 April, recommended that COLLETTA and DE MONTIS be interned. Copy of the letter was sent to your G-2 Section.
2. It is understood that the CIC agent, who is the chief witness in the cases against the remaining accused, is in the United States but will be returning in the very near future.
3. There will be no difficulty in convening the Court when the CIC officer is available, but his evidence is essential to the prosecution.

/s/ Norman E. Fiske.

NORMAN E. FISKE
Colonel
Acting Executive Commissioner.

3348

(Copy passed for cc files)

1625

785017

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

~~SECRET~~

21

Tel: 735

Ref: 1008/21/EC.

13 April 1945.

SUBJECT: Security Cases Pending before AEB Courts.

TO : Civil Affairs Section.

20

With reference to the attached letter dated 11 April 1945 from RAC, reference AC 371 (G-2) G - 44, the Chief Commissioner directs that in this instance a reply is to be prepared for his signature.

[Signature]
Chief Staff Officer,
To Executive Commissioner.

Incl:
as above

see file 20

PA 23/4 See Min 22.
D/O 23/4 [Signature] Nobel Jr.

BU 18/K 3347
[Signature] 3348
[Signature] 13/4

98

COPY *[initials]*

SECRET

90

ROME AREA ALLIED COMMAND
APO 794, US Army

~~CONFIDENTIAL~~

JWF/TKE/vaw

AG 371 (G-2) G-44

11 April 1945

SUBJECT: Security Cases Pending before AMG Courts.

TO : Chief Commissioner, Allied Commission, APO 394, US Army.

1. This headquarters is making every effort to effect a rapid disposition of the cases of Allied security prisoners held in the Rome area. With reference to those persons arrested during 1944, I wish to call to your attention the cases listed in paragraph 2. In the first two cases, AC personnel are making the necessary preparations for trial; in the last three cases, CIO have completed the preparations. All of the cases are to be tried by an AMG court under your general supervision.

2.	<u>NAME</u>	<u>DATE OF ARREST</u>
	COLLETTA, Vincenzo	13 July 44
	DE MONTIS, Mario	22 Aug 44
	MARTINI - ZACCAGNI, Aris	11 Oct 44
	BIANCHI, Armando	10 Nov 44
	BADIO, Silene	10 Nov 44

3. It is requested that every effort be made to expedite the trials of the persons named above. In the event that any case presents features such as insufficient evidence, it is requested that this headquarters be informed accordingly, so that we may make some other disposition of the persons concerned.

/s/ THOBURN K. BROWN
/t/ THOBURN K. BROWN
Brigadier General, US Army
Commanding

~~CONFIDENTIAL~~

~~SECRET~~

3346

[Handwritten mark]

1627

785017

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

(19)

1008

24 March 1945.
MAR 26 1945

Ref : AC/4129/6/L.

SUBJECT : COLUCCI Pietro.

TO : Headquarters 15 Air Force, APO 520, U.S. Army.

1. Reference is made to your first endorsement dated 6 March 1945, requesting the trial of the abovenamed Italian civilian by an Allied Military Court.
2. It is the practice of this Commission to refer crimes of the type disclosed by the charges and supporting statements to the Italian Courts in Italian Government Territory.
3. This is in accordance also with the recent policy laid down by the Combined Chiefs of Staff withdrawing Allied Commission personnel from Italian Government Territory.
4. I may add that we have found in the past that the Italian Courts in LEGGE, where the case would be tried, have imposed adequate sentences in cases affecting the interests of the Allied Forces and in view of the withdrawal of Allied Commission officers from this area the setting up of an Allied Military Court would be administratively difficult.
5. Unless, therefore, there is some very special reason for desiring the case to be tried before an Allied Military Court, it is requested that you withdraw your application and that the matter be referred to the Italian Courts. For this purpose the papers returned herewith should be sent to the Procuratore del Re at LEGGE who should be advised that he may now proceed with the investigation and disposal of the case. You will note that the Italian Authorities had already begun an investigation into the case but that this was suspended at the request of this Commission.

PA 581/26/3

/s/ Ellery W. Stone

ELLEERY W. STONE
Rear Admiral, USNR
Chief Commissioner

Prepared by :

Cel. E. W. BETHUNES, IXIA, LEGAL Sub-Commission

Co: Legal S/C
Chief of Staff
"CC" Files

Colonel

3345

(Overstamped)

(COPY RETAINED BY C.C.)

1628

785017

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

1008

10

18

AC/4173/L.

EMS/dp.

JAN 22 1945

My dear Mr. Prime Minister,

I have carefully considered your letter of the 29th December 1944 together with the Memorandum prepared by the Minister of Justice. The matters to which you refer were present to my mind at the time when I decided to establish the Allied Courts in the Bari area; I was induced, however, to take this decision for military considerations and because of the serious effect to the Allied war effort which was being produced by the large scale interference with the ammunition depots in the area.

Although my investigation persuades me that in the majority of cases the Italian Courts in Bari are doing their best, I am convinced that the volume of crime and the deficiencies of personnel make it presently impossible for the Italian Courts, however well intentioned, to cope with the situation in such manner and with such dispatch as military necessity requires.

Having in mind the contents of the Memorandum of the Minister of Justice, I feel that in all frankness I must point out the conditions as they are reported to me with respect to matters of personnel and the accumulation of cases both in the Italian Military and Civil Tribunals.

As of the 8th of January 1945, there were still lacking, the Primo Presidente, the Procuratore Generale, 3 Presidents of Sections and 3 Counsellors of the Court of Appeal, 9 judges of the Tribunale and 3 Sostituti Procuratori del Regno at Bari; 4 judges and 1 Sostituto Procuratore del Regno at Trani; 1 judge and 1 Procuratore del Regno of the Tribunale dei Minorenni at Bari and 8 Pretori and other officials of the Pretura of the Province of Bari. In short, of a total compliment of 124, no less than 34 were absent.

On the same date, 240 cases affecting Allied interests were awaiting trial before the Tribunale Militare in Bari. This congestion will inevitably increase if as recently intimated by the Ministry of War to the Tribunale Militare, its strength is to be so reduced that it may be necessary to close down one of two sections.

As of the 7th of January, 426 cases affecting Allied interests were undisposed of in the penal section of the civil courts, despite the fact that such cases had priority of disposition. The extent of the burden upon these courts and their inability promptly to dispatch their normal business is indicated by the circumstance that, as of the same date, 25,012 criminal cases not affecting the Allied interests and 7,636 civil cases were pending. 3345

Handwritten signature/initials

PA Jk

PA 23/1

1629

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

785017

17

I am sure you will appreciate the military necessity of obtaining a reduction in crimes affecting the Allied war effort and will agree that to accomplish that objective, prompt and deterrent punishment of offenders is essential. The facts which I have outlined leave inescapable the conclusion that the Italian Courts are not now equipped to dispatch such cases with the expedition which the exigencies of the occasion require.

There is every indication that the presence and operation of the Allied Military Courts have already served to diminish the incidence of crime against the Allied interests. Under all of the circumstances, I must conclude that their continuance is essential to military security and the war effort although I hope with you that this condition will not long obtain.

Yours very truly,

ELERY W. STONE

ELERY W. STONE
Rear Admiral, USN
Chief Commissioner

His Excellency Ivanoe Bonomi
The President of Council of Ministers
Italian Government

Co: Legal S/C
Chief of Staff
"A" Files

Prepared by: Lt. Col. MARC J. GROSSMAN, Chief Counsel, LEGAL Sub-Commission

Onas Bonomi
.....
Lt. Col., Spec-Res.

(Copy passed for "A" Files)

1630

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

785017

1008

~~2/04~~

Subsage

File

16

Extract of Minutes of Chief of Staff's Meeting held on 9 January 1945.

JAN 14 1945

AMC Courts at Bari - Protest from Italian Government. CA Sec had taken up the matter of the AMC Courts at Bari with IC, who would send a report as soon as possible, pending receipt of which no action would be taken.

3342

1008
Translation

The President of the Council of
Ministers

23156/19.10

Rome, December 29th 1944

DEC 31 1944

Dear Admiral,

I have given all my attention to your letter Ac/1113/2 of 12 November, about the institution of Allied tribunals in the Bari and Bitonto region, and I had the competent Italian Authorities make thorough inquiries about the inconveniences you pointed out.

The Minister Keeper of the Seals has now transmitted to me the enclosed report which points out all the negative and unfavourable aspects inherent to this regulation, and also shows all that has been and is being done by the Italian judicial organs to satisfy, in a true spirit of collaboration, the requirement of the Allies and give them the full, unconditional and objective help of our magistracy.

I shan't stop speaking about the technical aspects of the projected regulations, aspects which have been made sufficiently clear by the above mentioned note, but I want, my dear Admiral, to draw your particular attention on the political aspect of the question which is particularly serious.

Since last June, when I agreed to preside the Government of the country, my constant aim has been to reinforce by every means the prestige and authority of the Italian democratic State, for I am convinced that it is only through the good functioning of its traditional institutions that Italy will be able to give the Democracies such collaboration as she is eager to give.

The work of reconstruction of the chief institutes of the State is going forward slowly but safely, so that now only, and not even in all sectors and all provinces, submitted to Italian Administration, we begin to see the first results of this difficult and delicate work.

Admiral Stone
Chief Commissioner of the Allied Commission
R O M E

PA 11

BHV
see Minute 15
3341

1832

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

785017

While explaining a few transitory deficiencies of organization, which are nevertheless promptly coped with, this enables us to see how much the announced regulation establishing Allied Tribunals in the Bari and Bitonto region might prejudice the efforts made in this sense by the Italian Government. This seems very serious, the more so as the prestige and authority of the State would be compromised in the very Southern regions where recent experience has proved the need for a strong and powerful State organization, to nip in the bud the anti-national forces which do not help the war effort of the Allies and prejudice the contribution that the Italian nation can and must give to the common cause.

117/12
Considering this, I beg you or dear Admiral, to trust the assurances given by the Italian judicial authority in the enclosed note, and to see that the announced regulations be suspended so that the main functions of the Italian Government shouldn't be so seriously diminished.

I remain, my dear Admiral,

Yours very truly,

G. I. Bonomi

LIST

ACTION: C.A. SEC

INFO: CHIEF COMM

C or S.

33343

e.e.

NOTE

The decision to institute Military Tribunals in the Bari and Bitonto zone would be an obvious act of mistrust towards the work of our magistracy, and create an unfavourable impression among the population of these regions which have now been back under Italian authority for quite a long time.

On the other hand, this resolution does not seem to be justified for the chiefs of the Appeal Court of Bari, fully conscious of the requirements of justice in this zone, have already asked for the judiciary personnel to be completed, so as to be able to proceed without delay to the definition of the penal proceedings which are still pending, for offences against the Allies.

On his side, the Minister hasn't failed to give satisfaction to the above mentioned requests by appointing new personnel, immediately substituting the magistrates who had been sent off, by adequate changes of seat, and by obtaining the discharge from service of some magistrates who were still under arms.

According to such regulations, the organic plan of the Appeal Court of Bari, composed of 5 Section Presidents and 19 Coadjutors is now complete.

Counsellor MAGGI Amerigo only hasn't resumed his service yet, for he was under arms, but his discharge was requested last October.

The Procura Generale and the local procura del regio have now a complete personnel, and the Tribunal, which includes 26 magistrates has one vacancy only because of the promotion in appeal of Judge ANTONACCI Primo, who will be substituted as soon as possible.

It must also be noted that the special requirements for the administration of justice in the Bari region, and the wish of the Allies for a rapid change of the heads of the Court when they didn't trust have found immediate comprehension in the last changes among the high ranking magistrates, including the appointment of the new First President and of the Procuratore Generale of the said Court, respectively substituting H. EX. Cuomo, discharged, and H. LX De Santis suspended, because he is being submitted to a judgment of epuration.

To this we must add that, after the frequent requests of the Allies for a more rapid definition of the trials of the offences committed against their Army forces, the attention of the competent judiciary officials has every time been drawn on the opportunity for these trials to be dealt with first, requiring the greatest activity from the magistrates about this matter.

On the occasion of the installation of the new chiefs of the Court which is shortly to take place, the Minister Keeper of the Seals will not fail to impart precise instructions for a more intense rhythm of work to be taken by the dependent offices, through a better organization of the services, so as to grant a better efficiency of the personnel and the rapid definition of trials related with the interests of a military character, mentioned in Admiral Stone's letter.

1634

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

785017

fully conscious of the grave requirements of the present moment, the Italian magistrature will not fail to prove in this occasion too, its spirit of sacrifice to insure the regular functioning of justice in every field and particularly in that which is most directly related with the interests of the allies and war needs.

e.o.

3338

Spore
HEADQUARTERS ALLIED COMMISSION
APO 394.
CIVIL AFFAIRS SECTION.

10

ACC/4173/1/L.

12 November 1944.

SUBJECT : Military Courts in Bari Zone.

TO : Regional Commissioner, Southern Region. *see 14*

1. The Chief Commissioner has considered the military situation which has developed in the area of Bari as a result of the frequent acts of larceny of and damage to ammunition and other military stores there.

2. He is of opinion that the consequences of these acts are so damaging to the allied war effort that the offenders in such cases must be deemed to be committing offences to the prejudice of the Allied Military Forces.

3. The Chief Commissioner therefore directs that authority be and authority is hereby delegated to the Regional Commissioner, Southern Region to appoint and convene within the Bari Zone as defined by this HQ letter Ref/366/176/CA of 13 Sept 1944, Allied Military Courts for the trial of such persons as he thinks fit who may be charged with any of the offences below mentioned. Such courts shall consist of Superior and Summary Military Courts and shall have the powers respectively conferred upon Superior and Summary Military Courts in Military Government Territory.

4. Such courts shall sit on and when directed by the Regional Commissioner.

5. Such courts will in all such cases apply the Italian Penal Law and will proceed in accordance with the procedure established for Allied Military Courts. All cases will be reviewed on behalf of the Chief Commissioner by the Legal Sub-Commission, HQ AC.

6. The offences above referred to are any offences which involve:-

- a. theft or improper possession of ammunition, equipment, stores or supplies, the property of the Allied Forces;
 - b. damage to or interference with ammunition, equipment, stores or supplies, the property of the Allied Forces;
 - c. damage to or interference with military installations, depots in use by the Allied Forces;
 - d. assaults upon or interference with any member of the Allied Forces while engaged in the performance of any duty in connection with such ammunition, equipment, stores, supplies, installations or depots, the property of or in use by the Allied Forces.
- 14*
see 14
17

7. For the purpose of the above courts the following additional personnel will be attached to the staff of Southern Region :-

a. For judicial and prosecuting duties :

Major W.G.R. Oates
Major P.H. Oates-Freedy
Major S.A. Lupton
Major F.A. Young
Captain F.G. Bader
Captain F.J. Pulini
Captain H.G.T. Christians
Lieut. J. J. Vogel
Lieut. G.J. Robertson

b. For investigation duties :

Major W.E. Haro.

By Command of Commodore STONE:

G.R. Johnson
G.R. JOHNSON, Brigadier,
VP CA Sec
Dep COS

Copies to: Legal Sub-Commission
Public Safety Sub-Commission.

3338

10-08
AC/4173/L

12 Nov 44

14 NOV Recd

My dear Mr. Prime Minister,

As you are no doubt aware, the Allied Military authorities in Bari have for many months complained of the thefts and acts of sabotage which have taken place in the various depots in that area. In particular they have repeatedly protested against the large quantities of ammunition which are either stolen or rendered unserviceable.

These complaints have been brought to the notice of the Ministry of Justice and the local judicial officials. The local courts, however, seem unable or unwilling to take a serious view of the cases which are brought before them.

The number of these offences is not decreasing in any way. The offenders are clearly guilty of acts hostile to the Allied Forces and are in fact seriously prejudicing military operations and the prosecution of the war.

I regret to inform you that I consider it necessary in these circumstances to protect the Allied interests by the establishment of Allied Military Tribunals in the area, and I am accordingly authorizing the Regional Commissioner to convene regular Allied Military Tribunals in the Bari zone for the trial of such cases of this nature as he may consider necessary.

Yours very truly,

(Sgd) ELLERY W. STONE

ELLERY W. STONE
Commodore, USNR
Chief Commissioner.

His Excellency Ivanoe BONOMI
The President of the Council of Ministers
Italian Government
R O M E

333
3335

RESTRICTED

RE AC

AFHC SIGNED SACRED

EV50622

NOV 10 11 31A

6/486

65/10

ROUTINE

CITE: FBHC

10 NOV Recd

RESTRICTED.

Pilferage of ammunition R/M is subject. In reply to your 6245 of 9 November and confirming our letter of 5 November same subject proposal is agreed.

DIST

ACTION: Legal S/G 2

INFO: SO to A/CC

A/CC

C.O.S.

C.A. Sec

File 2

Float

RESTRICTED

10 NOV 1944

A. C.

RESTRICTED

NOV 10 14 15A

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

785017

3333

3335

1639

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

785017

C/486

65/10

ROUTINE

CITE: FROM

10 NOV Recd

NOV 10 11 31A

AFHQ SIGNED SACRED

SV50622

HQ AC

FOR INFORMATION ONLY

3

RESTRICTED.

Pilferage of ammunition HANI is subject. In reply to your 6245 of 9 November and confirming our letter of 8 November same subject proposal is agreed.

LIST

ACTION: Level 5/C 2
INFO: 50 to A/CC

A/CC

C.O.S.

C.J. Sec

File 2

Post

RECEIVED
10 NOV 1944
A. C.

3333

3333

RESTRICTED

NOV 10 11 31A

[Handwritten signatures and initials]

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

785017

1008

3

AFHQ

HQ AC

6245

9 Nov

RESTRICTED

ROUTINE

LEGAL SUB-COM

RESTRICTED PD

CMA

SUBJECT IS PILEDRAGS OF AMMUNITION BARRIERS REFERENCE YOUR LETTER OF
FIRST NOVEMBER PD PAREN TO AFHQ FOR CHIEF ADMINISTRATIVE OFFICER (ACTION)
REPEATED GEORGE DASH FIVE (INFO) FROM HQ AC PAREN PD THE COMMISSION
HAS FOR MANY MONTHS MADE REPRESENTATIONS TO THE ITALIAN GOVERNMENT IN THIS
MATTER PD I FEEL THAT THESE FURTHER REPRESENTATIONS WILL BE UNPRODUCTIVE
OF FAVOURABLE RESULTS AND PROPOSE FORTHWITH TO ESTABLISH ALLIED MILITARY
COURTS FOR TRIAL OF THESE CASES PD DO YOU AGREE QUERY

3333

Copy to: SO to A/CC
Chief of Staff
QA Section.

NICHOLAS W. DRAGNETT,
MAJOR, A.C.D.,
ADJUTANT.

BU 13 Nov

1008

PAH

HEADQUARTERS ALLIED COMMISSION
APO 394
Office of the Chief of Staff

From Chief Staff Officer.

Ref. 1008/2/COs

Ref: 388

6 November 1944

SUBJECT: Pilferage of Ammunition.

TO : Deputy Chief of Staff,
Civil Affairs Section.

1. I enclose a letter from Chief Administrative Officer, Allied Force Headquarters, on the above subject.
2. Will you please take action as indicated in paragraph 4. I am directed to ask you to write a strong letter to the Italian Government since it is considered most important that this pilferage be stopped.
3. Will you also please forward in draft a reply to AFHQ for the signature of the Acting Chief Commissioner.
4. I am directed to say that the matter must be treated as urgent.

W
Chief Staff Officer
To the Chief of Staff

Encl:

Copy to: Major Quayle.

3332

BU

10 Nov 44
Noted J.M.

7/11

1642

785017

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

COPY

ALLIED FORCE HEADQUARTERS
C.A.O. Office

1 November 1944

SUBJECT: Pilferage of Ammunition.

TO : Acting Chief Commissioner, Allied Commission,
APO 394.

1. This Headquarters has been informed that very considerable difficulty is being experienced in the maintenance of ammunition depots in and near Bari. Pilferage from these depots by Italian civilians has increased in recent months and losses of ammunition are such that a very serious problem has been created.
2. There has been widespread theft of ammunition, and also of parts of ammunition. In many cases the damage done to ammunition which has not been stolen has been substantial and may indicate sabotage.
3. Every effort is being made to guard and patrol the material in question. It is felt to be urgently necessary that the Italian Government cooperate in controlling this situation, particularly by means of prompt apprehension and prosecution of offenders and by judicial treatment of the offenders in accordance with the gravity of the offence.
4. It is requested that you will inform the Italian Government of the above, and that you will further advise the Italian Government that in the event of any laxity in the judicial administration it may become necessary to try persons charged with stealing War Department property before Allied Military Courts.

/s/ J. CLARK
/t/ J. G. W. CLARK
Lieutenant General
Chief Administrative Officer

Copy to: Ord (B)
 Q(Maint)

*Original letter passed 353
CA Sec - see file R*

