2135

ACC

10000/109/603
(VOL. II)

2136

10000/109/603
(VOL. II)

VENEZIA GIULIA, LEGAL
OCT. 1945 - SEPT. 1946

190.

C.S.O. H.S. 2/10.

Ref folio 187 and encls. please see minute 189

Abk 30/9 MC 2/9

4691

180.

C.S.O. Ex Comm

Ref minis 171 + 2. Draft opposite for your approval, please. AWK 20/9
W.J.C.

181.

C.S.O.

Can I please see the directive referred to in the draft.

22 Sept 46.

M Lawley
A/Ex Comm.

182

Ex Comm

Draft enclosed herewith. please
Bateman. 23/9.

183.

[redacted]

office note.

Brig Cusk states that this is now too late and the matter is to be dropped.

Ex Comm

Draft enclosed herewith please

Returns. [illegible] 23/9.

183.

[redacted]

office note.

Brig Cusk states that this is now too late and the matter is to be dropped.

Noted MC 29/9

[illegible] 26/9

188

4650

C.L.A.

Legal S/C

Have you any comments to make on folio 187 and its endorsements, please.

[illegible] 28/9

E.C.

189

This S/C has already commented on this subject matter & agrees with G5 draft letter. AMG Courts have always had jurisdiction to try Italians under Italian laws, if it was thought that Italian justice was not speedy or adequate enough.

G.G. Hamilton Maj

Legal S/C
30 Oct 46

173

Chief Commissioner.

I submit a draft instruction to TT Civil Affairs Section giving Colonel Weber his terms of reference to visit Toronto Chinia. I also submit draft letter to ARM referring to the inappropriate channels followed by General Harding, your minute 172 refers.

MS 13/9

13 September 1946.

174.

Chief Commissioner.

We spoke draft resubmitted after consultation with CS Weber CA.

DR 14/9.

175.

Chief Commissioner.

Attached is submitted for ~~approval~~ signature ~~information~~

DR 14/9

176

Commissioner.

Attached is submitted for ~~approval~~ signature ~~information~~

176

1767

1669

Legal S/C

Herewith file in connection with 176. Will you have any of the papers copied and return file to me.

M Carney
Act/Ex Comm

16/9

Ex Co.

128

I understand Col. Weber had copies made & has taken them with him to Trieste. File is therefore returned.

G.G. Hamilton
Lt Col

Legal S/C 19 Sep 46

CSO: 159

Economic sec. has drafted a reply to folio 158. We have been promised a copy by Col. Webster.

VOJ 116

Follow up & get copy of reply.

H.S. 3/6

CSO/H.S. 4/6 161

Reply is at p. 160.

VOJ 3/6.

~~160~~ 163

Ref Para 5 of 162, this S/C is in agreement with the suggested procedure.

E. E. Humphrey 4 Jul

Legal S/C - 11 June 46

171

Chief Commissioner.

I would ask you to read Page 162 relating to AMG courts in Venezia Giulia and Page 169.

As regards the courts I entirely agree with G-5 Section that the action of the courts both in their appreciation of their own jurisdiction and regards the sentences given to what is a consistent pilferage of UNRRA goods shows the greatest lack of appreciation of the courts. Colonel Webber who was in Venezia Giulia, I think in June, can give us more information on this point, but it would seem necessary to send him at once to Venezia Giulia with instructions thoroughly to overhaul the whole of the AMG court system and imbue into them some kind of elementary

165 163

Ref Para 5 of 162, this S/C is in agreement with the suggested procedure.

E. S. Humphrey
Lt Col

Legal S/C -
11 June 46

171

Chief Commissioner.

I would ask you to read Page 168 relating to AMG courts in Venezia Giulia and Page 169.

As regards the courts I entirely agree with G-5 Section that the action of the court both in their appreciation of their own jurisdiction and regards the sentences given to what is a consistent pilferage of UNRRA goods shows the greatest lack of appreciation of the courts. Colonel Webber who was in Venezia Giulia, I think in June, can give us more information on this point, but it would seem necessary to send him at once to Venezia Giulia with instructions thoroughly to overhaul the whole of the AMG court system and imbue into them some kind of elementary knowledge of AMG court procedure and the value of sentences.

1. 1

General Harding's telegram raises the whole question of channels. In the first place any matter dealing with Military Government should, in my opinion, come from the Military Government department of Venezia Giulia consequently if the views of the US and British Governments are desired this should be sought through the Embassies and therefore channelled through this Commission. I hope that in replying to Brigadier Archibald's most recent letter on communications between AMG Venezia Giulia and this Commission G-5 will get the whole matter straightened out. Alternatively would you like me to prepare a draft to G-5 based on the inappropriate channels followed by General Harding in this telegram.

2.

M.S. S/S

172

E.C.
I concur in both 162.
Col. Weber should take a copy of 168 & basic communication (167 & 166) with him. (He'll need it!)
Idix Eus cc

SEP 10 1946

2143

124

CSO 5-Dec 8/12.

Pse see 123 for info

CSO 5-Dec 20/12.

127.

126 for info. Legal have discussed with CE & Ex C. Suggestion impossible as AMG order cannot, in actual fact, ensure return of Jewish property.

20/12.

142

Ex. Comm.

Please see foglios 140 + 141. This file has apparently not been referred to Palad. What reply should be made to Sullivan + Greene?

J Wesley Jones
Palad (A) — Apr 2/46

143

Ex. Com.

So far as I am aware, the British Embassy has no views on this whatsoever.

to Sullivan + Greene.

J. W. Kelly Jones
Palad (A) — Apr 2/46

143

Ex. Com.

So far as I am aware, the British Embassy has no views on this whatever.

2/10/46

[illegible]
HA (Brit)

144

CSO/ File in mins 142 & 143 for the info of Ex Comm please
legal opinion is expressed in letter 145/8. [illegible] 2/4

149.

Ex Comm.

Ref m's 142 + 143 above. I understand you have already seen p 140 and also legal opinions at p's 145-148. We had not previously seen a copy of signal at p 139. H.S. 3/4

[illegible]

115

efe B.V. for CSO on return to see 113 with explanatory minute 114.

CB 23/11

116

Ex Rowan

Pse see 113 with explanatory minute 114, and reply at 117.

CB 26/11

112.

V.P. CAS

The telegram at 113 merited the very unsatisfactory reply at 117. We must when asking AHQ to take diplomatic action give them every detail and make a proper case. In our signal we did not even say who was appealing, let alone the cause of the appeal. Please see that a signal in reply to 117 is sent without delay & that in future the case is properly made out at initiation

AFHQ to take diplomatic action [illegible]
detail and make a proper case. In our signal
we did not even say who was appealing. Let alone
the terms of the appeal. Please see that a signal
in reply to 117 is sent without delay & that an
further the case is properly made out & entered

MS [illegible] 4606

Ex. Mins
Ex C.O.

119.

It is regretted that 117 did not contain complete information
the ~~[illegible]~~ matter ~~[illegible]~~ provided in this office at about 1215 ~~[illegible]~~ on 19th 21st
and in view of the possibility of the execution taking place, if action
was postponed it was considered desirable to get off some signal at once.
Legal SC was immediately contacted and dictated 117 to an
officer of his SC who returned in the afternoon and despatched
the telegram

This answer was supplemented on the 24th by the cable at 120.

Received Ex Cs Office on 29/11 [illegible] 29/11 [illegible] 29/11 [illegible] 1st Nov.

CAS
27 NOV. 1945
X 525

MS [36] x 1

109

legal

For action as in 105 below

CAS
5 NOV 1945
X 608

110

CA Sec

Ref Minute 108 herewith submitted form of pardon for the signature of the Chief Commissioner.

This sub-commission has no knowledge of the prison in which JACSETIC is confined but has addressed the pardon to the Superintendent of the Prison at TRIESTE.

Col Bowman requests that a signal be despatched to him that the pardon has been granted, as soon as the pardon has been signed by the Chief Commissioner. He also requests that a copy of the pardon when signed be handed to Major Hewitt, Liaison Officer, Room 16 -4th Floor.

Musgrave Thomas,
Italian Branch,
Legal Sub-Commission.

Legal S/C
5 Nov 45

111

Office of Ex Comm.

Signed original and one copy of folio 105A handed to Major Hewitt who will give them to Col Bowman tonight to take with him and to take the necessary action.

[illegible] now needed.

to Major Hewitt who will give them to Col Bowman tonight to take with him and to take the necessary action.

No signal is now needed.

Eden
for Gen K Wedem Col,
CLA -

Legal S/C
5/11/45

113.

Minutes 109-111 & Folio 112 seen by Ex. Com. 6/11.

114

H/CSO

Ref 113. This information emanated from Prefect of Pola via Ministry of Foreign Affairs reached CA. Sec on 21/11. Signal despatched in consultation with Legal S/C & Public Safety S/C. On afternoon 23/11 signal received from G-5 requesting further information about these gentlemen. Copy of answer will be sent to us.

GS. 23/11.

2150

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

OCT 29 RECD
1620

103A.

Chief Commissioner

Attached is submitted for your ~~approval~~ signature ~~information~~ for Min 102 refers.

Signal sent on f. 103A.
Letter for signature DS 27/1

105

To Com. Fol. 104 is reply to fol. 103.

Comm 31/10

106

Chief Commissioner

NOV 2 RECD
0900

SEATO's reply to 103 is on 104.

Have nothing to add to my minute 100

DS 1/11/61

107

EC

OK
Eng

VPCAS 108

CC approve of granting pardon as 1084 executive act of clemency for Tachobit. Will CAS produce a form of pardon for signature Today

DS 1/11/61

2151

2619

1945 187

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

File with Ex Comm unable to attach

G-5: 942.45

24 September 1946

SUBJECT: Trials for Theft of UNRRA Supplies

TO : Chief Commissioner,
Allied Commission,
APO 794.

168

SEP 26 1946

186

Reference this HQ letter G-5: 942.30(TS) of 3 September 1946.

1. Enclosed is a copy of this HQ letter G-5: 942.45 of 21 September 1945 and its enclosure.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

185

A. E. HARBIRD,
Colonel, G.S.C.
Assistant Chief of Staff, G-5.

Incl:
as above.

Sec m-188-9, 190

P.A. 3/Mod

2152

186

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 934.45 21 September 1946

SUBJECT: Legal Procedure Venezia Giulia.

TO : AMG XIII Corps.

167

Because of the conference held in Trieste on 19 September 1946 among representatives of AMG XIII Corps, MBOH and AFHQ, there is no necessity for the issuance of instructions in connection with your 13C/AMG/95 of 27 August. There is enclosed however a draft copy of a letter which it had been intended to dispatch and which reflects the views of AFHQ.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

A. L. HAMBLEN,
Colonel, U.S.C.
Assistant Chief of Staff, G-5.

1 Incl:
draft letter.

See 187

2153

185

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 934.45

September 1946

SUBJECT: Trials for Theft of UNRRA Supplies

TO : AMG XIII Corps

167.

Reference your 130/AMG/95 of 27 August.

1. The following comments are made on the table of cases enclosed in your letter:-

a. It is not understood why the charges were framed under Art. 5 of Proclamation 1, as UNRRA Supplies are clearly not Allied Forces property. The charges should have been brought under the Italian Penal Code.

b. Dismissal on the ground of want of jurisdiction is not understood. There was jurisdiction to try the case, it was the charge that was defective.

c. In many cases the fines appear to be less than the black market value of the goods stolen. In all cases the Fine seems to have been cheerfully paid.

d. The sentences seem to vary in scale of severity:

e.g. item	1-	1 pr shoes	15 days.
	15-	2 cotton vests	3 months.
	22-	12,000 cigarettes	3 months.

e. The cases seem to be getting more numerous with the passing of time, May is the last month dealt with and the heaviest. It would appear therefore, that the sentences have not a sufficient deterrent effect.

2. Major Bayliss decision to quash charges brought under Proclamation No. 1 is correct.

3. It would appear that greater care should be taken with the framing of charges and of the steps taken to scrutinise them for legality and sufficiency. 168 1

4. It is not agreed that there is no basis for military jurisdiction. AMG Courts have jurisdictionto try offences both against Italian law and Military ordinances. It has been only a matter of convenience that purely Italian offences have been left for trial by Italian Courts.

See 187

Stealing of UNRRA Supplies are not pu[illegible] Italian offences and will be dealt with by AMG Courts. The cases which have been referred to the Civil courts will be restored to the lists of AMG Courts. The so called "Civil" character of the offences is not relevant.

5. The speed with which cases can be brought to trial is one of the deterrent factors of proceedings. You will do your best to assure that all cases are brought to trial as speedily as reasonably may be.

6. There seems to be some justification for Mr. White's complaint. It is hoped that your corrective action will result in speedy trials and reduction of offences.

7. It is noted that in all cases of fines this has been an alternative to imprisonment. Stealing of military and UNRRA Supplies are connected with the black market. The punishment should remove the profit motive and should be sufficiently heavy, not merely to swallow the profit of the detected offence but to make traffic in the black market unprofitable; it should also remove the offender from the market. If the Italian Code does not allow of this AMG has the necessary powers.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

A.L. HAMBLEN,
Colonel, G.S.C.
Assistant Chief of Staff, G-5.

179.

DRAFT

DRAFT

Ref. : 2619/177/EC

September 1946

SUBJECT: Channel of Communication.

TO : G-5 Section,
AFHQ.

170

I refer to your letter G-5:943.42 dated 5 September 46 enclosing a copy of Top Secret undated cable no.0907 from XIII Corps to your HQ.

169

This cable dealt with a legal and political matter, for which, under the directive for AMG in Venezia Giulia, I, as Senior Civil Affairs Officer, am responsible to the Supreme Allied Commander.

I therefore consider that this cable should have been passed to your Headquarters through this Commission in accordance with normal procedure, or, failing that, at least a copy should have been addressed to this office, in accordance with the above mentioned directive.

I further consider that these remarks apply equally to SCAO XIII Corps letter no. 13 C/AMG/95 dated 27 August on the subject of the Trial of UNRRA cases.

167

to this office, in accordance with the above mentioned directive.

I further consider that these remarks apply equally to SCAO XIII Corps letter no. 13 C/AMG/95 dated 27 August on the subject of the Trial of UNRRA cases.

May the necessary instructions therefore please be issued to XIII Corps

ELLERY W. STONE
Rear Admiral, USNR
Chief Commissioner

1679

Wal Send

See 17-180

See mem 183

AWR 2619

2157

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

176

Ref: 2619/10

TOPS Confidential

14 September 1946

SUBJECT: AMG Courts - [illegible]

To : VP Civil Affairs Section.

167 168

I refer to [illegible] 1st Indorsement No. 982.30([illegible]) of 3 Sept. on AMG XIII Corps letter 130/AMG/95 dated 27 August 1946.

Will you please instruct the CAA to carry out an immediate investigation of court procedure and policy in AMG XIII Corps area, paying special attention to the application of AMG jurisdiction and to court sentences. He should make such recommendations as he deems appropriate to comply with para 2 of the reference 1st Indorsement and should report his findings to me.

In amplification of the last sentence of para 1 of the basic letter from G-3, it is my opinion that the jurisdiction of AMG courts should most definitely be applied to alleged thefts of UNRRA supplies as the interests not only of the Allies but of the United Nations are affected.

/s/ Ellery W. Stone

ELLERY W. STONE
Rear Admiral, USNR
Chief Civil Affairs Officer

Copy to: AMG XIII Corps.

See m-177, 178

1678

1A 1942

2158

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

2619 R 170

ALLIED FORCE HEAD QUARTERS
G-5 Section
APO 512

SEP 6 1946

G-5: 943.42 5 September 1946

SUBJECT: Strike in TRIESTE.

TO : Chief Commissioner,
Allied Commission,
APO 794.

A copy of 13 Corps Top Secret cable to AFHQ, ref no. 0907, undated, is forwarded to you for information.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

A. L. MAUBLEN
Colonel, G.S.C.
Assistant Chief of Staff, G-5.

Incl: as above.

4677

2159

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

169

AFHQ MESSAGE CENTER

INCOMING MESSAGE

FILED : NFT
PRIORITY

CRYPTO SECURITY APPLIES
TOP SECRET

AFSC : N 380/3

TOP SECRET

Confidential

M 171-2-4

FROM : MAIN XIII CORPS

TO : AFHQ

REF NO THIS MESSAGE : 0907

UNDATED

From General HARDING.

1. As you know, TRIESTE general strike 1 to 12 July was declared illegal by AMG on the grounds that it was engineered and directed by UAIS purely for political motives and was NOT in support of any economic claim. After the 11 principal strike leaders had ignored request to present themselves at HQ AMG warrants were issued for their arrest on 12 July. Since that date they have evaded apprehension thus acquiring status of fugitives from justice and according to reports and protest are located in Zone 'B'.

2. Appeal;for cancellation of warrants on grounds that strike was bona fide and AMG action ultra vires has been main issue of subsequent "popular" appeals, protest and agitation. Agitation now appears increasing

3. I consider revoking of warrants undesirable on 2 counts.

(A). As contrary to law the process of which having started should follow its course.

(B). It would be capitalised by pro-Slav propaganda as a victory wrung from AMG by their agitation. Intention is therefore that warrants shall continue to remain valid.

4. I should be glad to know that this policy has the support of the US and British Governments.

All informed.

4676

MC IN 159

CRYPTO SECURITY APPLIES
TOP SECRET
-1-

TOP SECRET

COPY NO. 20

THE MAKING OF AN EXACT COPY OF THIS MESSAGE IS FORBIDDEN

2160

REF NO THIS MESSAGE : 0907 (Cont'd) UNDATED

ACTION : G-2

INFORMATION : SACS G-5 C/S MTO BRIT POLAD US POLAD G-3(AFHQ)

2619. 96

168
1298

SEP 6 1946

1st Ind.

G-5: 942.30 (T3) 3 September 1946

FROM: Allied Force Headquarters, G-5 Section, APO 512.

TO : Chief Commissioner, Allied Commission, APO 794.

SUBJECT: Trial of UNRRA Cases.

1. The above report indicates in the opinion of this headquarters a serious lack of appreciation of the functions of AMG courts. Many of the sentences are entirely inadequate. Furthermore, this headquarters does not understand under what rules or regulations, AMG Courts are not authorized to take jurisdiction over civil offenses. As a matter of policy only it may be desirable for civil courts to try offenses not against the military authorities but this policy should not apply to UNRRA supplies.

2. It is desired that you cause an investigation to be made of the court procedures and policies in AMG Venezia Giulia, take such corrective action as you deem appropriate and report your findings and actions to this headquarters. If you find that the legal officers in AMG Venezia Giulia are incompetent or for other reason should be relieved you will so report.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

A.L. HAMPLEN,
Colonel, G.S.C.,
Assistant Chief of Staff, G-5.

Copy to:

AMG Venezia Giulia.

3-4

m 171.2
pa. 146 + 187

4675

(Capt K)

PA 2619
D

2162

2619 41

P & C 167

HEADQUARTERS, ALLIED MILITARY GOVERNMENT, 13 CORPS

Office of the Senior Civil Affairs Officer

27 August 1946

Reference No.: 13c/AMG/95

Subject : Trial of UNRRA Cases

To : AFHQ (Attention G-5)

1. Reference is to your signal 22212 B 22 Aug 1946. The following information is submitted.

2. The head of the UNRRA Jugoslav Mission in Trieste, Mr. Barry White, has been requested both by phone and by letter to furnish specific instances of convictions for individual investigation. He has indicated that he would like to drop the matter, but is being pressed for details. Cases will be investigated and results forwarded when Mr. White has responded.

3. Enclosed are minutes of Court records for the last six months involving thefts of UNRRA supplies. These cases were handled as cases of possession of military property under Article 5, Proclamation No. 1.

4. On 29 May 1946, one of our legal officers, in reviewing the cases of Degrassi Franc. and Dambrosi Giov., quashed them on the ground there was no evidence that sugar stolen was property of the Allied Forces. It is believed that this view is legally unassailable, and there appears to be no other basis for military jurisdiction. Therefore, since 10 June 1946 all cases involving UNRRA property have been regarded as purely civilian in character and have been sent to civilian courts for trial. No sentences have been pronounced by the civilian courts in these cases. However, 69 cases against identified offenders have been started and are ready for trial. 137 cases are awaiting further investigation and identification of offenders.

5. If so ordered by higher headquarters, AMG 13 Corps will assume jurisdiction in, and try cases of theft of UNRRA property, in spite of their purely civilian character. Instructions are requested.

4774

See 186

See 146

PA 26/9

Bo

166

HEADQUARTERS, ALLIED MILITARY GOVERNMENT, 13 CORPS

Office of the Senior Civil Affairs Officer

6. Records show no repeaters among offenders. The fact of previous conviction will be known to Court and presumably considered in the event that repeaters are tried in the future.

7. Under the Italian Penal Code Art. 97, minors under 14 years of age are not tried, being considered incapable of understanding and willing crime.

8. Under Article 98, minors over 14 but under 18 years of age are liable to penal proceedings and penalties only if it is affirmatively proved that they have committed the crime and are capable of intending and willing it.

9. Under Article 169, if the penalty established by law for the crime committed by the minor is less than 2 years imprisonment, the judge may grant a judicial pardon, if proved that the minor led a proper life in the past and there is reason to believe that he will commit no crimes in the future.

10. Under Article 25 R.D.L. 29.7.1934 No. 1404, a minor who commits a crime but cannot be convicted may be sent to a judicial reformatory if it is proved that he leads an improper life and lives under detrimental family conditions.

ALFRED C. BOWMAN
Colonel, J.A.G.D.
Senior Civil Affairs Officer

Encl:

Copies to: Legal Division
BGS 13 Corps
SCAPO

AMG Courts Records of last 6 Months involving thefts of UNRRA supplies.

(Tried as "possession of Allied Forces property" under Art 5, Proc #1)

Name & date of trial	Offence Charged: Possession of	Guilty or Not Guilty	Sentence
1.BALDROCCHI FED. 9 May 46	one pair of shoes	Guilty	15 days impr.
2.BALBI ETTORE 28 March 46	2 lbs. of sugar	Guilty	14 days impr.
3.BRESSAN EDOARDO 23 April 46	4 sacks of sugar	Not guilty	Acquitted
4.MODUGNO STEFANO 23 April 46	" " " "	" "	"
5.METILKA STELLIO 23 April 46	" " " "	" "	"
6.SALICE MARIO 23 April 46	" " " "	" "	"
7.BOSCOLI DOMENICO 21 Feb 46	12 Stone of wheat	Guilty	30 days impr.
8.BONI ALDO 31 May 46	11 sacks of wheat	Case dismissed on grounds no jurisdiction. Civilian courts have to deal with UNRRA property.	
9.BERGER SILVANO 13 May 46	1 tin of cheese	Guilty	Fine L.2000.- or 14 days impr Fine paid.
10.BARTILOVICH MARC. 6 May 46	15 kg of sugar	Guilty	40 days impr.
11.CANTONI MARINO 29 May 46	30 hundredweight of sugar	Sugar not Allied Force property; to be dealt with by Civil Courts.	
12.LA CALAMITA L. 29 May 46	30 hundredweight of sugar	idem.	
13.TAMBURINI LIBERO 29 May 46	30 hundredweight of sugar	idem.	
14.TAUCERI GIOVANNI 29 May 46	30 hundredweight of sugar	idem.	
15.GASPRO MASCIM			

5 May 46			
11.CANTONI MARINO 29 May 46	30 hundredweight of sugar	Sugar not Allied Force property; to be dealt with by Civil Courts.	
12.LA CALAMITA L. 29 May 46	30 hundredweight of sugar	idem.	
13.TAMBURINI LIBERO 29 May 46	30 hundredweight of sugar	idem.	
14.TAUCERI GIOVANNI 29 May 46	30 hundredweight of sugar	idem.	
15.CASTRO MASSIM. 5 May46	2 cotton vests	Guilty	3 months impr.
16.CERLENIZZA NER. 7 May 46	One sack of sugar 100 lbs.	Not guilty	Acquitted
17.CESARIA ALFREDO 6 May 46	11 kg of sugar	Guilty	2 weeks - suspended
18.COLONI GIUSEPPE 22 Feb 46	50 kg of sugar	Guilty	Fine L.2000.- or 20 days impr Fine paid.
19.CREVATIN GIOV. 18 March 46	1250 cigarettes	Not guilty	Acquitted
20.CRYLENKO MASS. 6 May 46	48 bars of soap	Guilty	2 weeks impr. suspended
21.DAVEGGIA GIORGIO 31 May 46	11 sacks of wheat	Dismissed. UNRRA property-- No jurisdiction.	
22.D'AGNOLO DARIO 1 May 46	12000 cigarettes	Guilty	3 months impr.
23.EMILI GIOVANNI 22 Feb 46	2 pairs of gloves 1 raincoat-12 pr.socks	Guilty	3 months impr.
24.ESTELLO COSIMO 5 March 46	4 vests	Guilty	2 months impr.
25.FALCARO LIVIA 6 May 46	34 bars of soap	Guilty	10 days- suspended

164

Name & date of trial	Offence Charged: Possession of	Guilty or Not Guilty	Sentence
26.FRANCO BRUNO 7 May 46	4 packets of cigarettes	Not guilty	Acquitted
27.FURLAN MARIO 22 Feb 46	1 pair of shoes 12 stone of wheat	Guilty	30 days impr.
28.FURLANETTO ROMEO 6 May 46	250 cigarettes	Guilty	Fine L.500.- or 5 days impr. Fine paid
29.GREGORETTI MARIO 1 April 46	50 bars soap 162 sticks shaving soap	Guilty	Fine L.5000.- or 30 days Fine paid.
30.ILIAS FRANCESCO 26 March 46	50 lbs. of grain	Guilty	14 days impr.
31.LOZEJ STANISLAW 31 May 46	A quantity of cigarettes	Not guilty	Acquitted
32.MARCHESI UMBERTO 5 May 46	4 vests	Guilty	3 months
33.MARTELLI CARLO 25 March 46	400 American cigarettes 1 lb. coffee	Guilty	Fine L.2000.- or 21 days. Fine paid.
34.MARTINI ARMANDO 22 Feb 46	14 children linen jumpers	Guilty	30 days impr.
35.MARTINI BRUNO 23 Feb 46	8 bales children coats cartons of youth sheep-skin coats.	Not guilty	Acquitted, lack of evidence.
36.MEZEK FRANCESCO 5 March 46	7 tins cigarettes	Guilty	Fine L.1000.- or 10 days. Fine Paid.
37.MEZZIK FRANCESCO 31 May 46	90 lbs. of wheat	Not guilty	Acquitted
38.MORTEL GUIDO 26 March 46	60 lbs. of grain	Guilty	14 days impr.
39.PANTANI MARIO 27 May 46	4 ration cases	Guilty	3 months impr.
40.PELOS NAZARIO 23 Feb 46	27 packets of cigarettes	Guilty	21 days impr.
41.PLOVICH SIMONNE 5 March 46	4 vests	Guilty	3 months impr.
42.RUZZIER ANDREA 4 March 46	2 vests	Guilty	3 months impr.
[illegible]	[illegible]	Guilty	4 months impr.

39.[illegible] 27 May 46	4 ration cases	Guilty	3 months impr.
40.PELOS NAZARIO 23 Feb 46	27 packets of cigarettes	Guilty	21 days impr.
41.PLOVICH SIMONNE 5 March 46	4 vests	Guilty	3 months impr.
42.RUZZIER ANDREA 4 March 46	2 vests	Guilty	3 months impr.
43.SIEGA PIETRO 4 March 46	1 raincoat-2 petticoats 1 pr drawers-1vest 2 petticoats-9 pr socks.	Guilty	4 months impr.
44.TREMAROLLI L. 23 Feb 46	Lbs.-14- cheese	Guilty	14 days impr.
45.VIRGILIO ANG. 27 Mar 46	890 cigarettes	Guilty	1 month impr.
**46.DEGRASSI FRANC. 6 May 46	80 kg. of sugar	Guilty	Fine L.10.000- or 1 month. Fine paid.
**47.DAMBROSI GIOV.	112 lbs. of sugar	Guilty	Fine L.15.000- or 60 days. Fine paid.

** Both accused lodged an Appeal against the sentence and the reviewing Officer, Major F.C.S. Bayliss decided as follows:

1. Conviction and sentence quashed. No evidence that sugar was property of Allied Forces.
2. Case to be sent to Italian Courts, for trial for breach of rationing law.
3. Record is returned herewith.

Three minors appeared before Civilia n Court on 25 April 46 charged with illegal possession of 14 American blankets, UNRRA. They were:

1. GRADARA TARCINIO aged 16
2. LUICI VITTORIO " 13
3. SION GIORDANO " 13

They were acquitted.

2168

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

2619 Gd

1168

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
13 CORPS

Date ~~30th June~~ 4 June 46.

TELEPHONE No. Trieste 29794 Ext 45.

REFERENCE No. 130/AMG/G4.31/35.

SUBJECT: Captured Radio Equipment.

TO: Mr Allied Commission.
(Office of Executive Officer)
APO 394, Rome.

Legal opinion

1. Reference para. 3 of AMG letter G-5: 912/311 dated 11 Apr 46.

2. This Headquarters is now proceeding to prosecute DOLJAK Giuseppe, of Gorizia, for violation of AMG Proc. 1, Art IV, Sect 6, in connection with the subject radio equipment. In order that this case may be prosecuted, Legal Division of this Headquarters has stated that the equipment will be necessary as evidence.

In view of Legal Division's decision on this point the radio set will be held in Gorizia until the case has been disposed of in Court.

3. The decision in para 2, above, will therefore make it impossible for para 3 of above mentioned AMG's letter to be complied with immediately.

However, as soon as the legal proceedings have been concluded in Gorizia you will be notified so that para 3 of said letter may be complied with.

4. The 88th Division has made request to this office that it be permitted to buy or rent the radio equipment in question, after the legal proceedings have been completed. You are therefore requested to contact the proper Italian authorities on this point, and let this office know the decision. In case the set cannot be obtained for the 88th Division, it is requested your office furnish this Headquarters the necessary information to turn the equipment over to the Italian authorities.

5. It is felt by this Headquarters that if the equipment is to be returned to Italian authorities, then said authorities should arrange for transportation of same.

For the Senior Civil Affairs Officer,

Kenneth Cooper,
Major, F.A.,
Deputy Chief Economics Section.

RECORD OF ACTION LEGAL INFO-EC

258

PR 1116

KC/dje.

Copy to: Main HQ 13 Corps.
Secretary, Joint Economic Committee.

CR 1163

(LAFT 50)

EC/160

HEADQUARTERS ALLIED COMMISSION
APO 794
ECONOMIC SECTION

VRAC/1

Ref. 40-23/FA

1 June 1946

SUBJECT : Seprals

TO : SCAO HQ A.M.G. 13 Corps, 59

Reference 13C/ANG/79/1 dated 16 May 1946.

1. It is now understood that the High Commissioner for Food is not prepared to press this matter especially as it has been pointed out to him that many of the principles in the Decree will be applied in Venezia Giulia.

2. The matter was fully discussed with Major Myatt during his recent visit to Rome and both he and the High Commissioner are now satisfied that without adopting the decree in toto, many of its clauses can be applied to Venezia Giulia without resort to a General Order.

For the Chief Commissioner:

(Signed)
CHARLES W. WALTON
Colonel, A.C.
Acting Vice President

CHARLES W. WALTON
Colonel, A.C.
Acting Vice President

Copy to Exec. Comm.

Approved :

V.R.A. COWPER
Lt. Colonel
Director, Food & Agriculture Branch

4600

See 11 161

2170

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

269

EC 158

COPY

COPY

HEADQUARTERS, ALLIED MILITARY GOVERNMENT
15 Corps - Office of the Senior Civil
Affairs Officer

Ref. : 130/AMG/79/1

16 May 1946.

SUBJECT: Seprals.

MAY 20 1946

157

Executive Commissioner
Headquarters
Allied Commission

1. Thank you for your letter 43-10/FA of 24 April 1946 suggesting the extension to Venezia Giulia by General Order of new rules and regulations for the administration and control of Seprals promulgated in Italy by the Decree of 31 Jan 1945.

2. My Food Officer comments as follows:
"The Decree, in substance, makes for "autonomy" of Seprals. They are to come under the control of the Prefetti and their administrative expenses will be met from surcharges on foodstuffs distributed.

I am not in favour of (a) relinquishing the present direct control of Seprals exercised by this Division through Food Officers in the Areas, (b) permitting prices to rise to meet the expenses of an "authonous" organisation.

On the other hand, certain administrative principles of the Decree, such as the institution of "collegi amministrativi" and "collegi sindacali" could profitably be applied to Venezia Giulia as a means of ensuring efficient administration.

I understand the institution of such "collegi" within the present framework of the organisation will not require the publication of a General Order".

3. I am particularly impressed by the matters mentioned by Major MEATT in the second quoted paragraph, which I feel are vital in this area. Since he believes that many of the advantages of the new plan can be realised in Venezia Giulia without a General Order or any change in the basic scheme, I am naturally inclined to follow his recommendation.

4. If you feel that Major MEATT has overlooked any vital consideration or that the new General Order should be published in spite of his remarks I should be glad to hear from you further.

See 160

/s/ALFRED C. POWELL
Colonel,
Senior Civil Affairs Officer.

EC DIST. 20 May
ACTION: ECON SEC
INFO: EC.
(CAPT Daly)

See M-157

PA 23/5

2171

2619 51° 152

Ref. 43-10/FA 27 April 1946

SUBJECT : Sepral

TO : S.C.A.O. 13 Corps

1. By Decree of the President of the Council of Ministers dated 31 January 45 (copy attached), certain new rules and regulations for the administration and control of the Seprals throughout Italian Government territory were enacted. This Decree has been extended to cover all A.M.G. territory. The only Seprals now working under the old and obsolete regulations are those in Venezia Giulia.

2. It is suggested therefore that the decree should be examined with a view to putting its provisions into force in Venezia Giulia by General Order, as it is obviously desirable for all Seprals to have uniformity in their administration and control.

M.S. 1155

Brigadier
Acting Chief Commissioner

4607

Approved :

158

V.R.A. COWPER
Lt. Colonel
Director, Food & Agriculture Branch

Copy to: C. Com.
E. Comm.

(COPY K)

2172

2619 46

156

COPY COPY

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

Ref. : 4/50,A/CA 18 April 46

APR 18 1946

SUBJECT: Venezia Giulia Extradition Procedure

TO : AFHQ (G.5)

154

Ref your G.5: 934.31 of 10 April 46.

The draft proposed reply to letter from XIII Corps has been examined and perused and this Headquarters has no comments to make on same.

FOR THE CHIEF COMMISSIONER

/s/M. Carr
M. CARR, Brig.
VP CA Section

4666

2173

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

2619 48

153

CONFIDENTIAL

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 934.31

10 April 1946

APR 12 1946

SUBJECT: Venezia Giulia, "Extradition" Procedure.

TO : Headquarters, Allied Commission,
APO 394

154

1. Enclosed is a copy of a letter to XIII Corps from the Jugoslav Military Government of Zone B, requesting the arrest and return of certain alleged fugitive criminals and also a draft of the proposed reply.

2. Your comments on the proposed reply are requested.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

A. L. HAMBLEN
Brigadier General, G.S.C.
Assistant Chief of Staff, G-5

Encl:
as above

Original to CA Sec for action w/4

see 156

(LAPT K)

CONFIDENTIAL

Sec Pa. 15/4 AB

CONFIDENTIAL

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 934.31

10 April 46

SUBJECT : AMG Courts - Venezia Giulia "Extradition" Procedure.

TO : Headquarters, XIII Corps.

1. It is understood that you have asked for a ruling as to how requests from the Jugoslav Military Government of Zone 'B' for the handing over criminal fugitives, as distinct from political refugees, should be dealt with.

2. Such persons will be dealt with on the analogy of extradition proceedings; that is to say:

a. Zone 'B' will produce evidence to show that the accused is subject to their jurisdiction. They will produce the formal charges and a summary of the evidence by which it is proposed that the charge will be proved.

b. On receipt of this evidence and if satisfied that there is prima facie evidence that a crime (of an extraditable nature) against existing Italian Law has been committed, Zone A will proceed to arrest the accused and bring him before a Zone 'A' AMG Legal Officer sitting as a judge.

c) At his appearance the Zone 'B' official will prove the facts referred to in sub-para 2 a. above and the accused will be heard in answer. If the AMG Legal Officer is satisfied

(1) that a prima facie case is made and

(2) there is no credible suggestion by the defence that the case is false and its trues purpose political victimization,

he will make an order for the handing over of the accused for trial in Zone 'B'.

d. If it is credibly suggested that the true object of the application is political the case will be adjourned and the facts reported to this Headquarters together with a recommendation. The accused will be held in custody until directions as to his disposal are received from this Headquarters.

153

3. Before bringing these proposals into effect, agreement will be reached with Zone 'B' that they will follow a similar procedure. In discussing the matter with Zone 'B', the contents of para 2 c. (2) and 2 d. above will not be referred to.

BY COMMAND OF LIEUTENANT GENERAL MORGAN

A.L. HAMBLEN
Brigadier General, GSC
Assistant Chief of Staff, G-5

Copy to: Alcom

2619 A

152

APR 4 1946

4 April 1946.

Ref: AC/1492/1/L.

138

My dear Mr. Prime Minister:

I reply to your letter of 28th February last, No. 62382, with some delay as considerable time was required for the examination of the delicate point you submitted to me.

Your request has received my most careful attention and that of both my political and legal advisers. I regret to have to say that it has been found impossible to comply with your wishes. There is no doubt that in accordance with Italian Penal Procedure and AMG Orders now in force in Venezia Giulia the Court of Assize has full power to try the accused. The time limit of the jurisdiction of this Court has been extended in Trieste by General Order No.41 for a further three months as from 8th February 1946.

May I point out, furthermore, that the transfer of this trial to an Italian Military Court sitting in Venezia Giulia is out of the question as Italian Military Courts not only have not been convened but lack jurisdiction in this territory.

Finally, the suggestion that General ESPOSITO, General D'AQUINO and others be tried by a Court sitting in territory already restored to Italian Administration cannot be accepted, considering the fact that all the alleged offences were committed in Venezia Giulia where the geographical jurisdiction lies and therefore this transfer would constitute a breach of Italian rules of Penal Procedure.

I would also like to draw your attention to the fact that there are more than a hundred witnesses in this case, whose transportation, billeting, feeding, etc., would cause a great deal of unnecessary expense.

Yours very truly,

M. S. LUSH
Brigadier
for HENRY W. STONE
Rear Admiral, USNR
Chief Commissioner

1302

Dr. Alcide de Gasperi,
President of the Council of Ministers,
Italian Government,
ROME.

Copy to: G. Com.
E. Com.

2177

151

Confidential

HQ ALCOM CITE ACHXC 6 APRIL 46

SCAO AMG VENEZIA GIULIA

139

2345 SECRET

I REFER TO MY SIGNAL TWO ZERO NINE ZERO OF ONE SIX MARCH AND TO TELEGRAMS FROM SULLIVAN AND GREENE TO THEIR EMBASSIES ADVISING OMISSION OF AMENDMENT RESTRICTING TO ITALIAN GOVERNMENT LEGISLATION PD THIS AMENDMENT HAS BEEN INSERTED NOT RPT NOT AT REQUEST OF EMBASSIES BUT IN ORDER TO PROTECT ABLE MIKE GEORGE ACTS FROM BEING SUBSEQUENTLY CHALLENGED BECAUSE

PAREN ABLE PAREN PROCEDURE UNDER ABLE MIKE GEORGE LEGISLATION IS NOT RPT NOT IDENTICAL WITH ITALIAN PROCEDURE .

PAREN BAKER PAREN AND THEREFORE EVEN IF THE SUBSTANCE IS THE SAME THE JURISDICTION APPLYING IT IS DIFFERENT PD THIS BEING THE CASE CMA REFERENCE SHOULD BE MADE TO ITALIAN LEGISLATION AND THE AGREEMENT OF THE ITALIAN LEGISLATIVE POWER SOUGHT PD IN THIS PARTICULAR CASE AS THE LEGISLATION DEALS WITH FASCISTS AND SANCTIONS AGAINST THEM IT SHOULD NOT APPEAR UNREASONABLE NOR TO SLOVENES TO QUOTE LEGISLATION ENACTED BY THE PRESENT GOVERNMENT OPERATING IN THE LATE CRADLE OF FASCISM PD I WOULD POINT OUT THAT ABLE MIKE GEORGE DRAFT ORDER NUMBER TWO THREE QUOTES SIMILAR ITALIAN DECREES ARTICLE BY ARTICLE PD PAREN JEWISH PROPERTY ORDER PAREN

Copy to: Am. Embassy.
Br. Embassy.
Polad (A), AC.
Polad (B), /C
CA Sec (For Legal S/C)

PRIORITY

Executive Commissioner

Seen By Polad 8/4 15/A WK 31

735
8/4

2305 2619 13 Comm 151A

V-9 Secret

of 16 March
Signal 289 and to telegrams from

I refer to my ~~letter 139~~ to Sulliven and Greene telegram to their Embassies advising omission of amendment referring to Italian Government legislation. This amendment has been inserted not at request of Embassies but in order to protect AMG acts from being subsequently challenged because

a) procedure under AMG legislation is not identical with Italian procedure

b) and therefore even if the substance is the same the jurisdiction applying it is different. This being the case reference should be made to Italian legislation and the agreement of the Italian legislating power quoted.

In this particular case as the legislation deals with Fascists and sanctions against them it should not appear unreasonable even to Slovenes to quote

the case reference should be made to Italian legislation and the agreement of the Italian legislating power quoted.

In this particular case as the legislation deals with Fascists and sanctions against them it should not appear unreasonable even to Slovenes to quote legislation enacted by the present Government operating in the late cradle of Fascism. I would point out that AMG draft order No. 23 quotes similar Italian Decrees article by article. (Jewish property Order). 4080

Priority

Ref to Embassies

Ex Com

Legal Sec

Polcomm (A)

(B)

see 151

2180

2619

SECRET

APR 3 1946 (150)

CIPHER

R/1554

8/46

APR 3 1000

02155OB

ROUTINE

SIGNED GREEN.

AMG 13 COMES US FOLAD

AMCOM AFHQ CAMMTA INFO: ACCOM FOR US FOLAD.

Confidential

SECRET

12 SECOND REPEATED ROME AS 13. REFERENCE MY IMMEDIATELY PRECEDING TELEGRAM AND LETTERS 211 MARCH 30 AND 210 APRIL 1. ASSUME YOU HAVE SEEN NUMBER 49 TO LONDON APRIL 2 REPEATED ROME 21 AND ROME 33. WITH UNDERSTANDING THAT FOREIGN OFFICE IS REQUESTING DEPARTMENTS COMMENT ON PROPOSED REPLY. I CONCUR IN SULLIVANS SUGGESTED AMENDMENTS WHICH ARE DESIGNED TO ASSURE CONFORMITY WITH REALITIES OF SITUATION HERE. PENDING COMPLETION OF INVESTIGATION INTO GUNNER SHOOTING I WOULD SUGGEST AVOIDING ANY STATEMENT TO JUGOSLAVS WHICH MIGHT HARDEN ACCEPTANCE THEIR VERSION WHICH AS I UNDERSTAND IT IS THAT FASCIST OR CHETNIK ELEMENTS WERE RESPONSIBLE.

SIBLE.

HEADQUARTERS
3 APR 1946

AC DIST

INFO: ACTION: FOLAD (A)

INFO: CHIEF COMMISSIONER

EX COMMISSIONER

FOLAD (B)

FILE

SECRETO

4659

SECRET

CIPHER TELEGRAM

This message must not be distributed outside Headquarters, Government Departments or Missions without authority. Always in Cipher without indication of phrased. (Messages marked O.T.P. must not be paraphrased).

2619

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/mda.

AG/4188/3/L.

1 April 1946.

APR 3 1946

SUBJECT : General Orders - Venezia Giulia.

TO : Chief Commissioner (Through Executive Commissioner).

1. On a number of instances this Sub-Commission has been requested by the Senior Legal Officer Venezia Giulia to approve the issue of various orders, which A.M.G. 13 Corps intended to promulgate in the part of territory under its control.

2. Such orders were obviously outside the scope of the accepted legal powers of the occupant as they affected both life and property of private citizens of the occupied State. They included Restitution of Jewish property, amnesty for offences tried by Italian Courts, establishment of Courts to deal with political offenders, etc.

3. It was agreed by the Senior Legal Officer and this Sub-Commission that the only way of rendering such legislations valid considering the impossibility of implementing existing Italian legislation was to obtain the agreement of the Absent Sovereign, whose powers were suspended, to the issue of the required orders.

4. Unfortunately in practice matters did not work out as planned. On one occasion this Sub-Commission was never consulted (Order on Amnesty), on others the consent of the absent Sovereign (i.e. the Italian Government) was duly obtained and authorisation given to the Senior Legal Officer to draft and issue the necessary order. On each occasion this Sub-Commission insisted ~~on the cut~~ that proper reference be made of the fact that the text of the order was in conformity with existing legislation passed by the absent Sovereign in territory restored to his control.

5. For political reasons, in view of the tension existing in Venezia Giulia, the SCAO has always declined to make any reference to the absent Sovereign in the orders above referred to. The result of this policy is that orders are issued under the authority of the occupant alone and are clearly "ultra vires" as the occupant cannot, promulgate legislation which may affect permanently the life or property of private

citizens of the occupied State.

6. The consequences of this action may very well be that all such legislation will be challenged before the local Courts as soon as the disputed territory is restored to the absent Sovereign or passes under a new one.

7. It is highly probable that many decisions of the local Courts now forced to apply the law of the occupant will be declared invalid, when the territory is restored to the absent Sovereign or passes under a new one. Such has been the case in all similar situations in the past. (Attached precedents refer). This will create further chaos and impose new hardships on an already sorely tried population.

8. This Sub-Commission declines to take any further responsibility in the promulgation of orders of the type above referred to. If political expediency and the seriousness of the situation demands that these orders be promulgated this must be done under the sole authority of the military and not by an alleged legal interpretation of the rights and powers of the occupant with which this Sub-Commission entirely disagrees.

9. Some references are hereunder.

R-E-F-E-R-E-N-C-E-S

1. - Art. 46 of Hague Convention.

2. - Belgian Court of Cassation (Auditeur Militaire v. G. Van Dieren. Jan. 1919). The Court held that "material sovereignty subsisted in the occupied territory during the occupations, even when the occupying power exercised "de facto" authority".

3. - Latvian Senate - 19 Nov. 1920 - Kulturas etc. - v. Ministry of Home Affairs.
"German decree contravened the rights of the Sovereign".

4. - Hall-Page 580 - Para 164
"When an invader exceeds his legal powers his acts are null as against the legitimate government."

5. - Oppenheim-Page 483 Para 283.

6. - "If the legal Government were obliged to recognise the continuing effects of any act of administration carried out under an occupant's authority, a few weeks' occupation might possibly result in servitudes being set up or obligations undertaken, which would prejudice the legal Government for a generation." Speight also points out that certainly thereafter the returning sovereign is not called upon to recognise purely political acts of the occupant or judicial sentences inflicted for such military offenses as 'war treason'.

7. - The Belgian legislature has considered itself free to avoid or confirm the acts of the occupying power (Cassation, 19 March, 1928, Pasicrisie Belge, 1928, I, p. 164). It follows that the state whose territory is occupied is free to disregard even those acts of the occupying power which may be capable of justification under Article 43 of the Rules annexed to the Hague Convention IV of 1907. This is accordance with the principle that the occupatio bellica, from the point of view of the State whose territory is occupied, constitutes a situation whose significance is solely factual. In the silence of the legislature, the courts have always assumed this power of revision, and tested the validity of the acts of the occupying power by the criterion of Article 43 to which reference is made above. (See, for example, Cour d'Appel de Bruxelles, 25 June, 1925; Tribunal Arbitral Germano-Belge, 19 October, 1925. Annual Digest, 1925-1926, Cases Nos. 361, 362). Since the courts lack the power to transform a mere factual into a legal situation, it seems to follow from these precedents that only those acts of the occupying power capable of being justified in international law have a valid legal effect internally.

8. - On the application of the test of international legality by Hungarian courts, See the Hungarian decision, In re Andrea, of September 14, 1952, Annual Digest, 1931-32, Case No. 232, on the lack of jurisdiction of a Rumanian occupation court in ordinary criminal matters. See also the Polish case, Siuta v. Gunkowski, No. 342, ibid., 1919-22.

9. - See also the following holding of the Supreme Court of Peru of July 11, 1932, in De Marta v. Marta, ibid., 1931-32, Case No. 52: ".....there should be taken into account the fact the reign of Chilean law in Tacna was precarious and based on force, and that it is not just that Peruvians who were obliged to perform their legal transactions according to that law should find

themselves, when that state of force has ceased, still deprived of the benefits of a law which favours all other Peruvians".

10. - In Briey and Longwy the Germans had removed the French judges and replaced them by a court established in the name of the German Empire. In 1917 one of these courts acquitted a French person. The Court of Appeal of Nancy held, on January [illegible], 1920, Annual Digest, 1919-22, Case No. 334, that the person could be prosecuted again because the Germans had no right under Article 43 to suppress the French courts of the region. See also, to the same effect, a decision of the Court of Appeal of Douai on May 15, 1919, Clunet, 1919, p. 770. etc. etc.

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

Copy to G-5 AFHQ
" " Polad (A)
" " Polad (B)
" " Senior Legal Officer - Venezia Giulia.

2185

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

2619

141

BRITISH ARMY CIPHER MESSAGE

SIGS SERIAL
2970

IMMEDIATE

FROM SULLIVAN BRIT POLAD

Confidential

3012003

ACTION BRITISH EMBASSY ROME

SECRET

139

02030. SECRET. PLEASE SEE ALCOMS TELEGRAM TO SCAC NO 2060 OF MARCH 16 REGARDING LEGISLATION ON FASCIST CRIMES.

PARA TWO: DOUBT IS FELT HERE AS TO POSSIBLE POLITICAL EFFECTS OF INSERTING REFERENCE TO ITALIAN GOVERNMENT IN SECOND PREAMBLE OF DRAFT GENERAL ORDERS I UNDERSTAND THAT THIS AMENDMENT HAS BEEN INSERTED AT THE REQUEST OF THE BRITISH AND UNITED STATES EMBASSIES.

PARA THREE: DO YOU ATTACH PARTICULAR IMPORTANCE TO THIS INSERTION ? IF NOT I SHOULD SUGGEST OMMISSION AS AMG ARE CLEARLY NOT HAPPY ABOUT THIS.

PARA FOUR: GRATEFUL YOUR EARLY OBSERVATIONS AS PROMPT PUBLICATION OF ORDER IS DESIRED.

CIPHER TELEGRAM

This message will not be distributed [illegible]

[illegible] messages [illegible] need not be paraphrased.)

see M 142 + 143

IMMEDIATE

4654

2186

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

2619

APR 1 1946
H/1423

8/44

MARCH 301220B

MARCH301630
PRIORITY

AMG 13 CORPS US POLAD
HQ ALCOM FOR US POLAD

CONFIDENTIAL

CONFIDENTIAL

1138 personal for Jones.SCAO hasinformally consulted Sullivan and we on Alcoms amendment to second paras of draft order on additional sanctions against crimes of a fasciste nature.He understands from legal Officer that amendment reading "In conformity with the Policy adopted by the Italian Government" should be inserted at Behest 2 Embassies.SCAO is advised insertion would have no legal effect but is concerned at possible political repercussions of including overt acknowledgement of application Italian law here,contrary to practice since AMG took over. I am inclined to share this apprehension but said am unaware your reasons for wanting insertion,which on its faceappears to give pro Jugoslavs additional propaganda point of exception to new law which they probably wont like anyhow.Other hand new law by applying Italian procedure appears meet local Italian objections to present 1 even without the amendment.
Since SCAO anxious publish final order soonest , grateful for your early comment which I may use in further p[redacted] and informal discussion with him.

[redacted]QUARTERS

AC DIST

ACTION - US POLAD

INFO - CHIEF COMMISSIONER
LEGAL S/C
EX COM
B POLAD
FILE

CONFIDENTIAL

2187

2619 A

Ex Comm 139

16 March 1946

HQ ALCOM

(1) SCAO (Attn: Legal Division) VENEZIA GIULIA.

UNCLASSIFIED.

2090

PARA ONE PD DRAFT GENERAL ORDER ON ADDITIONAL SANCTIONS AGAINST CRIMES OF A FASCIST NATURE IS APPROVED WITH FOLLOWING INSERTIONS COLUMN AFTER THE SECOND WHEREAS OF THE PREAMBLE QUOTE WHEREAS IN CONFORMITY WITH THE POLICY ADOPTED BY THE ITALIAN GOVERNMENT IN THIS RESPECT UNQUOTE IT IS DESIRABLE TO PUNISH FASCIST CRIMES COMMITTED ATC PD

PARA TWO PD PLEASE CONFIRM

see 151

Priority

Legal Sub-Commission

302

4032

see 1149

(CAPT K)

2188

TRANSLATION

Ed. (023F).

2619

EC 138

THE PRESIDENT OF THE COUNCIL OF MINISTERS.

Rome, 28 February, 1946.

MAR 5 1946

Dear Admiral,

According to General Alexander's Ban No. 5, published in the A.M.G. Gazette, dated 15 September, 1945, crimes of collaboration, in the Venezia-Giulia territory occupied by the Allies, are judged by a Court of Assize, constituted by a judge and four lay-judges. The Ban which adopts judgment analogous to that in force in the Italian legislation, subjugates military men, as well as civilians, to the Courts of Assizes.

General Giovanni ROMANO, (gold medal), and General D'AQUINO, as well as several other officers, are at present pending trial for collaboration in the Court of Assize of Trieste.

Justice must be done, and officers judged severely for actions which may have been to the enemy's advantage, yet the Government feels obliged to point out to the Allied Authorities, the political aspect which the proceeding might assume if it took place in the Court of Assize in Trieste.

According to General Alexander's Ban, the jurisdiction of the special Court of Assize should come to an end on the 15 March, "save further orders from A.M.G.". If this exceptional regulation should be kept in vigor, I beg you to have the competent authorities in A.M.G. examine the possibility of inserting, in above mentioned Ban, a provision analogous to that in ART 3 of the D.L.L. 5/10/45, No. 625 on the Special Sessions of the Court of Assize, according to which the judgment of crimes pertaining to those courts, is transferred to the Military Tribunal when questions of a military character are implicated.

I have submitted this to you owing to its particular gravity, and in order that you may intervene opportunely, with the competent Allied Military authorities.

With regards.

Yours truly,

De Gasperi.

(s) De Gasperi.

Admiral Ellery W. Stone
Chief Commissioner
Allied Commission
R O M E

RC DIST - 1 Mar 46 51

ACTION - CA Sec (2)
INFO - CC
- RC

(MB)

Left - 152

(CAPT D)

AC/4010/4/L. 21 February 1946.

My dear Mr. Prime Minister,

In answer to your letter of the 14th February, may I point out that all present and future Italian legislation is automatically implemented in the Province of Udine unless the Allied authorities consider that such implementation would be contrary to public order. (Gazzetta Ufficiale No. 21 of 25 January 1946 refers)

DLL No. 669 of 12 October 1945, on the increase of rents of urban dwellings is therefore operative in this Province.

Very truly yours,

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

Dr. ALCIDE DE GASPERI,
The President of the Council of Ministers,
Italian Government,
R o m e.

4050

2190

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

2619

136

Ref: AC/4010/1/L. 20 February 1946

SUBJECT: General Order.

TO : SCAO, AMG, XIII Corps.

132
7/35

1. There is forwarded to you translation of a letter received from the Under Secretary to the Presidency of the Council of Ministers, dated 7 Feb 46.

2. In this letter the Under Secretary points out that by Decree No. 433 of 20 July 45, the name previously used, viz: "Societa' Italiana degli Autori ed Editori" was re-adopted by that Society.

3. This Headquarters does not have a copy of your Order referred to and the only copy of G.O. 33 possessed by this Headquarters is dated 19 Dec 45 and concerns "Public Wages". It would appear that the Under Secretary has not given the correct number of the Order. There would, however, seem to be no reason why the title "Societa' Italiana degli Autori ed Editori" should not be used in VENEZIA GIULIA as the Society there is only a branch of the Head Office in ROME. By adopting a different name (i.e. excluding "Italiana"), unnecessary confusion may be created.

4. Please, however, investigate the matter and forward your comments along with a copy of the Order in question.

For the Chief Commissioner: M S. LUSH 2619

Brigadier,
Executive Commissioner.

2619 8 TRANSLATION

135

THE PRESIDENCY OF THE COUNCIL OF MINISTERS

UNDERSECRETARIAT FOR PRESS AND TOURISM

Rome, 7 Feb 1946

N. 28187/Lo 1

TO : Allied Commission - Rome.

SUBJECT : Allied Military Government for Venezia Giulia (13 Corps) - Order No. 33 of 27 October 1945.

We wish to draw the attention of the Allied Commission on the Order in question according to which it has been decided to change the name "Ente Italiano per id diritti di Autore" (Italian Association for authorship rights) into "Societa' degli Autori ed Editori" (Society of Authors and Editors).

In territories under direct Italian Administration, in accordance with DLL N. 433 of 20 July 1945, said association had already re-adopted the previous name "Societa' Italiana degli Autori ed Editori" (Italian Society of Authors and Editors).

Therefore we wish to request you to examine the advisability of having AMG Order re-examined in order that also in Venezia Giulia such name be re-adopted thus becoming identical to the one used by the society in Italy and abroad. The more so as practical confusion would result from the present different denomination since the public might suppose it to represent a different juridical society.

It must be pointed out that the qualification Italian necessarily refers to the origin and seat of the association in question and not to the exclusive purpose of defending Italian interests. In fact it is known that the association represents also the copyrights of authors belonging to similar foreign societies, including first of all the British and US ones. Moreover its agencies abroad are known everywhere as agencies of the "Italian Society of Authors and Editors".

Trusting that the matter will be given your kind consideration, we would be grateful if you could let us have a kind reply in this connection.

THE UNDERSECRETARY OF STATE
TO THE PRESIDENCY OF THE COUNCIL

/s/ Arpesani

2192

2619 96

134

Ref: AG/4181/2/1.

16 February 1946.

SUBJECT: Special Courts of Assise.

TO : 1 BOAD, AMG 13 Corps.

1. Lt.Col. MARGARONI spoke to me in reference to your letter 130/AMG/10/ of 4 Feb 46 on the question of the powers of the special court of assise in 13 Corps.

2. Whatever may be the opinion expressed in the press by the public in Zone "A" of Venezia Giulia, there can be no question in my mind that it would be quite wrong as well as illegal for the Allied Military Government in that Zone, which is essentially an Allied Military Government to maintain law and order on a short term basis, to assume to itself judicial powers which should and can only be carried out by Italian Courts. The trial of Fascists for offences committed before September 1943 is a domestic, or we may call it national, matter for the Italians and of the Italian Courts.

3. It would be undesirable to set up under AMG authority a procedure which would be different to that now in force in Italy. Furthermore, there is no doubt that the Italian Government would refuse to accept the jurisdiction of such courts and would insist on the alleged Fascists being tried in Italian courts situated in Italian territory.

4. There should be no great difficulty in transferring Fascists who have been denounced for acts done before September 1943 to the Italian Assise Court in GORIZIA or perhaps in VENICE. The transport of accused and witnesses will present difficulties but these cannot be called insuperable.

5. Therefore, I suggest that the procedure outlined in Lt.Col. MARGARONI's letter of 5 Nov 45 be put into practice as soon as practicable.

1647

M S [illegible]
Brigadier,
Acting Chief Commissioner.

Copy to: AG(CS), 13 Corps.
Comd, AMG.
Ex Com
G. Com

(Spencer) 19/2

2193

2619 EC 133

TRANSLATION

Rome, February 14, 1946.

GA/

FEB 15 1946

THE PRESIDENT OF THE COUNCIL OF MINISTERS.

Dear Admiral,

The necessity that the decree law of 12 October 1945, no. 669, regulating the lease of urban real estate be extended to the provinces which are still under A.M.G. jurisdiction, has been brought to my attention.

It does not, in fact, seem right that the increase in rents, established by this decree, cannot be applied to the above mentioned provinces.

I would therefore be grateful if you will give your personal interest to the matter.

With best regards,

Yours sincerely,

(s) De Gasperi.

Admiral Ellery W. Stone,

Chief Commissioner,

Allied Commission,

Rome.

E. C. DIST - 15 Feb

Action: E. Griffith Jr. (2)
Info: C.C.
E.C.
L. Lee

m/b

(Page 13) ERB 18/2

2194

2619. 46

E.C. 132

Translation

The Presidency of the Council of Ministers
Undersecretariat for Press and Tourism

n. 28187/Lo 1 Rome, 7 February 1946

FEB 8 1946

To : Allied Commission - Rome

Subject : Allied Military Government for Venezia Giulia (13th Corps) - Order n. 33 of October 27th 1945.

We take the liberty of drawing the attention of the Commission on the order in question which decided the changing of the name 'Ente Italiano per i diritti di Autori' into 'Societa' degli Autori ed Editori'.

In the territories which are directly under Italian Administration, this organization had already resumed the name of 'Societa' Italiana degli Autori ed Editori', in accordance with the decree from the Lieutenant dated 20 July, 1945, n. 433.

Will you kindly examine the advisability of having the A.M.G. order reconsidered, so that the former name be also resumed in Venezia Giulia, and therefore the same as that which the Society now has in Italy and Abroad. The present difference of names might make people believe that there are two different jurisdical concerns, and this would lead to inconvenience.

It must be pointed out that the qualification Italian necessarily refers to the origin and seat of the organization in question, not exclusively to the purpose of defending Italian interests, as it is well known that it also represents the copyrights of authors belonging to similar foreign concerns, including first of all the British and United States Societies. Its Agencies abroad are known everywhere as Agencies of the Societa' Italiana degli Autori ed Editori.

Trusting this matter will be taken in consideration, I beg you to let us know what action the Commission intends to take on such a matter.

The Undersecretary of State
to the Presidency of the Council

A. Arpecani

E.C. DIST - 9 Feb

Action: C.A. Hart (2)
Info: C.C.
E.C. Pa

o/c

see 136

(CBPI C)

2195

358

2619 131

8/41/4/164
JAN 271900A

G/8196
JAN 271630
IMPORTANT

HQ AMG 13 CORPS
HQ ALCOM

JAN 30 1946

127A

UNCLASSIFIED.

Reference LIAISON OFFICER VENEZIA GIULIA letter 13 C/AMG/LO ROME/125/1 dated 10 January para 2. Instructions from you still awaited. Please accelerate as early publication of this order considered essential.

AC DIST

ACTION ~~HS COMM~~ 2 CA Sec
INFO CHIEF COMMISSIONER
FILE
Ex Comm.

CA. Sec have in hand - Ex C has seen. PA. 7/2

NOTE:- Checked with Major Reeves CA Sec & this refers to an order on the Change of Surnames. CA Section are taking ACTION.

R.U.

(CAPT R)

2196

2619 130

Ref: 4/44.1/CA.

21 January 1946.

JAN 22 1946

129

My dear Mr. Prime Minister,

I have received your letter N. 3/2256 of 30 December 1945, written to me from the Ministry of Foreign Affairs, on the subject of the proposed Allied Military Government Order in Venezia Giulia dealing with the changing of surnames.

On receipt of your letter I arranged for AMG Venezia Giulia to suspend action in this matter in order that this Commission might give consideration to the question.

I have now received from AMG Venezia Giulia a copy of the proposed Order and am having it examined. As soon as a review of the proposal has been completed by my staff I shall be sending you a further communication on this subject.

Very truly yours,

Elleery W. Stone

ELLERY W. STONE,
Rear Admiral, USNR,
Chief Commissioner.

Mr. Alcide De Gasperi,
The President of the Council of Ministers,
Italian Government,
Rome.

4043

PA 2311

(CBET 6) CB 2311

MINISTERO DEGLI AFFARI ESTERI

COPY 129

N. 3/2256

Rome, December 15th 1945

Dear Admiral Stone,

I wish to call your attention to a communique' the Allied Military Government of Trieste recently published in the Trieste newspapers; its text reads as follows:

"1. The public is hereby informed that the Allied Military Government is preparing an Order, which shall be issued at an early date, granting facilities in the changing of surnames.

"2. The procedure contemplates a more expedite manner in effecting such change than it was possible under previous laws.

"3. Until the time when said order will come into effect, identity cards and other official documents will be issued under the applicant's present name".

The above mentioned Order obviously aims at facilitating the restoration of the original form of Slav surnames in the cases in which they were given an Italian sound, in the past years, in accordance with a 1926 Law.

In fact, during the past regime, on several occasions some pressure was brought on many a people in the Venezia Giulia, with a view to inducing them to "italianize" their surname.

I hardly need telling you, dear Admiral Stone, that as a Minister of democratic Italy I could raise no objection to a measure which, on and by itself, would simply mean facilitating the redress of a wrong suffered by anybody or the restoration of a right which had been infringed. The free use of one's own family name in the form in which it was handed down from one's ancestors is certainly a fundamental right of the human personality and I could not find words harsh enough

I hardly need telling you, dear Admiral Stone, that as a Minister of democratic Italy I could raise no objection to a measure which, on and by itself, would simply mean facilitating the redress of a wrong suffered by anybody or the restoration of a right which had been infringed. The free use of one's own family name in the form in which it was handed down from one's ancestors is certainly a fundamental right of the human personality and I could not find words harsh enough to condemn those who have failed to respect the said right. There is no doubt that should the Venezia Giulia have reverted, as soon as liberated, to full Italian administration, any Government of democratic Italy would have hastened to issue regulations similar to those announced in the communique' previously referred to.

After these premises, I wish to outline, dear Admiral Stone, some considerations concerning the practical results which the regulation could have, due to the peculiar circumstances of time and place.

In the situation in which the Venezia Giulia has happened to find itself, the equilibrium between Italians and Slavs has undoubtedly been broken in favour of the Slavs. In fact, the greatest part of the region is under occupation by the Jugoslavs and they behave as if said territory were already definitively annexed to their State, whereas conversely in the territory of Trieste, Gorizia and Pola, the Italian State cannot exercise any power and the Authorities administrating said regions, i.e. the AMG, behave as a trustee who is in the dark as to which of the parties involved will ultimately see its claims recognised.

Such a situation cannot but have a depressing effect on the Italians of the region.

It is consequently probable that regulations such as the one in question will result in raising new apprehensions and alarm in Italian quarters and that the Jugoslav propaganda will amply exploit it for political speculations.

See F.130

One must also bear in mind that nationality is in the Venezia Giulia mainly an act of volition: the name of the family does not by all means constitute a sure proof of the national stock of the individual, on the contrary the Christian name, if anything, is indicative thereof.

It must also be remembered that under Austro-Hungarian rule the registration of births was entrusted to Church Ministers, and that it was a constant tendency of the Slav parsons to add a Slav desinence to Italian surnames.

Lastly, it is beyond doubt that many persons have given an Italian sound to their Slav surname not under pressure but of their own free will.

Now, it is publicly rumored in the Venezia Giulia that some persons, be they soldiers or civilians, who found themselves in Jugoslavia because of events connected with the war, have suffered illtreatments and severe hardship on the part of Tito's partisans - in some cases even the death penalty as traitors to the Slav cause, solely because of the fact that they had "italianised" their original Slav surname.

Said rumor, enlarged and strengthened by the atmosphere of intimidation and of nightmare created by the Jugoslav "attivisti" which burdens the Italians of "Zone A", could induce many persons to avail themselves of the announced regulation merely for fear of reprisals on the part of the Jugoslavs should the whole of the Venezia Giulia definitively be assigned to Jugoslavia, an event which the Jugoslav propaganda gives as unfailingly sure. It is consequently easy to imagine in which painful conscience case some inhabitants of the Venezia Giulia have found themselves at the result of the communique' in question. On one side they feel bound by their personal dignity. On the other by the incubus of possible future acts of vengeance against themselves and their dear ones.

These considerations aim at stressing, dear Admiral Stone, how delicate and involved is the nature of the matter under consideration.

It would seem desirable that the Allied Military Government be advised

would induce many persons to avail themselves of the announced regulation merely for fear of reprisals on the part of the Jugoslavs should the whole of the Venezia Giulia definitively be assigned to Jugoslavia, an event which the Jugoslav propaganda gives as unfailingly sure. It is consequently easy to imagine in which painful conscience case some inhabitants of the Venezia Giulia have found themselves at the result of the communique' in question. On one side they feel bound by their personal dignity. On the other by the incubus of possible future acts of vengeance against themselves and their dear ones.

These considerations aim at stressing, dear Admiral Stone, how delicate and involved is the nature of the matter under consideration.

It would seem desirable that the Allied Military Government be advised to refrain from issuing regulations which go beyond the competency of an occupying Military Authority and which do not appear to be urgent for military or other impelling reasons whereas, as mentioned before, said regulations could lend themselves to political speculations and to interpretations which would render still more confused and more difficult the situation in the region, which is already so delicate.

I trust that what I have outlined above will meet your friendly understanding and I beg to remain, dear Admiral Stone,

4641

Very sincerely yours

/s/ DE GASPERI

EC DIST

ACTION - CA Sec

INFO - E.C

2201

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

2619

127A

RE ALCOR GIRM MODAS 311610

AND VENEZIA GIULIA

9813 CONFIDENTIAL

PARA ONE TO BE HAS BEEN REPORTED THAT AMG HEAD IS BEING TRIED CONCERNING
ACTIVITIES PRE DURING OR IMMEDIATELY AS
PARA TWO ED REQUEST THAT THIS HEADQUARTERS BE CONSULTED PRIOR TO ISSUE AS
REPRESENTATIONS HAVE BEEN RECEIVED FROM ITALIAN GOVERNMENT ON THIS SUBJECT

THE DIST

Exec.Commissioner

4610

PA
3/1
B

SECRETT

CIVIL AFFAIRS BRANCH

C.J. LEONE
CMO, USA
Asst Adjutant

437 H.V. ARNOF, Major

2202

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

2619 Exec. Comm. 126

8.0
DEC.191800A

G/5926
DEC.200900

IMPORTANT
DEC 20 1945

ANC 13 CORPS FROM BOWMAN
HQ ALCOM FOR CHIEF LEGAL ADVISER INFO: AFHQ FOR G5 SECTION
FOR A C O S

RESTRICTED

RESTRICTED.
In view rapid dispersal urge early comment our letter 29 November and accompanying draft order re return of jewish property. At minimum please state immediately whether policy permits matter be handled here at all by interim mlgov order rather than left for permanent Government as reported planned for other places in theater.

AC DIST

ACTION : LEGAL 2
INFO : CHIEF COMMISSIONER
EXEC COMM
FILE 2
FLOAT

4039
See M.127.

RESTRICTED

PA 21/12

(MISS S)

2203

2606 + 2619

125

Rome, 15 December 1945.

DEC 1 1945

122.

Dear Mr. Secretary,

acknowledge.

I have the honour to acknowledge receipt of your letter 5/2136 of the 5 December concerning General No. 1 [illegible] in Venezia Giulia. I am glad to be able to inform you that the order in which you have taken exception was revoked by General Order No. 39 of the 6 December. Copies have been taken on this matter prior to the receipt of your letter.

Yours very truly,

ELLERY W. STONE

Rear Admiral, USN
Chief Commissioner

Mr. Charles Fahy
Executive Secretary
Italian Commission
Rome.

1035

PA
18/12/45

2204

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

2406 + 2619

(123)

8/12/2/97(.
061500B

G/5051
070830

PRIORITY

DEC 7 1945

AMG 13 CORPS FROM BOWMAN
ALCOM FOR CIVIL AFFAIRS SECTION

RESTRICTED

RESTRICTED.

AS PREVIOUSLY STATED IN TO MANY INQUIRIES GENERAL ORDER NUMBER 19 OF 13 OCTOBER ABOLISHING REQUIREMENT OF ITALIAN CITIZENSHIP AS PREREQUISITE FOR PUBLIC EMPLOYMENT WAS RULED COMPETENT BY CHIEF LEGAL OFFICER AND PROMULGATED ON REPRESENTATION IT WOULD AFFORD RELIEF TO DESERVING AND CAPABLE PERSONS BORN IN THIS AREA BUT UNABLE TO BECOME CITIZENS BY REASON OF DISCRIMINATORY FASCIST RACIAL REQUIREMENTS. LAS IN PRACTICE DIN -00)83% ONLY IN CONNECTION WITH TEACHERS FOR SLOVENE SCHOOLS THE MOST FRIENDLY AND ESSENTIAL OF WHICH, PARADOXIACALLY, HAVE BEEN NON-CITIZENS. THIS PURPOSE HAVING BEEN FULFILLED AND THE ORDER AT THE PRESENT TIME SERVING NO OTHER SUBSTANTIALLY USEFUL PURPOSE, BEING IN THE REVISED OPINION OF MY LEGAL OFFICER JURIDICALLY DOUBTFUL AND THE SUBJECT OF MANY RECENT PROTESTS, INCLUDING FORMAL RESOLUTIONS OF TRIESTE AND GORIZIA AREA COUNCILS, HAVE REPEALED IT AS OF TODAY BY GENERAL ORDER 29 WITH A STATEMENT TO THE PRESS AS FOLLOWS " THE PREMISES UPON WHICH GENERAL ORDER 19 WAS PROMULGATED HAVE BEEN RE-EXAMINED AND ITS PRACTICAL APPLICATION HAS BEEN STUDIED. IT APPEARS THAT THE ORDER DOES NOT AT THIS TIME SERVE ANY SUBSTANTIALLY USEFUL PURPOSE AND IT HAS THEREFORE BEEN DECIDED TO REPEAL IT ".

(AC DIST OVER)

4037

2205

AC DIST

ACTION : CAS

INFO : CHIEF COMMISSIONER
EXECUT COMM (2)
LEGAL
EDUCATION
FILE.

2206

122

[illegible]
3/256
Rome, December 2nd, 1945.

[illegible]

Dear Colonel [illegible],

The Allied Military Government of the Venezia Giulia has issued several orders, a copy of which is enclosed, which are modelled on Yugoslav laws, like in the Allied Military Government under the Venezia Giulia Military Government of occupation of Italy, now in force, regarding the Italian Military Law for Employment of Public Officers.

Such orders came over to the notice of the population at a time of the very delay, because, as it has been reported, it was not published in the Zones, nor did it appear in the municipal noticeboards, but only in the Gazette, on other days. Once again, the manner in question has caused a uproar, quite understandable, and the population of Trieste has protested in various manners against it, i.e. with protests to the prefecture, with resolutions of protest of the National Committee of Liberation and of the Zone Council addressed to the A.M.G. (copy of the resolution of the Zone Council is enclosed), the National Committee of Liberation Committee has also made a formal appeal to the Italian authorities to obtain the repeal of the order.

From information which I received, it seems that said orders of the Allied Military Government to the personnel also involve true and proper repudiation, another promise born in the old Yugoslav Province - the order the reorganization of the Slav schools recently established in the Province and for the appointment of Slovene judges for the Tribunals of the district.

Moreover, taking into consideration what I had already the occasion to say in your Excellency's Note 3/217, dated November 27th, concerning the artificial character of the educational institutions established in zone "A" and the tolerance of the Allied Military Government towards the slow pace of implementing the Slavs who are a disgrace to Venezia Giulia by reason of the old Yugoslav provinces. In fact, if the Allied Military Government's design had been simply to entrust certain offices and responsibilities - in view of particular local situations to non-Italian speaking persons, it could have availed itself, according to the nature of the different tasks, of its own officers or of persons chosen amongst the Slavs belonging to the region, who are still Italian citizens.

Admiral Harry W. Hill
Chief Commissioner
Allied Commission

- [illegible] -

LC DISP - 6 DEC 1945
DCM/R - CP Sec (2)
INFO - SC
EC

see 125
9 DEC 1945

At any rate, irrespective of which the principal aim of the measure might have been, it befalls me to underline that such a wide and radical character of the General Order does not seem to be in conformity with the principles of international law which are universally recognized (see Art. 43 of the Regulation annexed to the IV Hague Convention of November 18th, 1907), according to which the occupying authorities may complete the administrative organization of the occupied country with special provisions to meet requirements of the military situation, but are not entitled to modify and much less to abrogate the existing laws, except in the case of absolute war necessity. In view of the above it would seem needless to recall again the declarations repeatedly made to the Italian Government by the Allied Powers concerning their intention not to prejudice the "statu quo" of the Venezia Giulia up to the moment of the Peace Treaties.

It appears therefore that the General Order in question goes far beyond the powers conceded to the Occupying Country by international law; there is no doubt too that it goes far beyond the powers which might be recognized to a (unauthorized) administration, such as the Allied Authorities have defined their own administration of the Venezia Giulia.

You will acknowledge, dear Admiral Stone, that during all this time the Italian Government, and personally myself, have given complete evidence of our understanding in the matter of the extraordinary difficulties confronting the difficult task entrusted to Allied Military Authorities in the Venezia Giulia.

Consequently I do sincerely regret, dear Admiral Stone, that I have to ask you to transmit to the Allied Commission, over which you preside, my protest for a measure appearing all the more arbitrary in as much as it does not seem essential to a policy of recognition - even quite comprehensive - of Slav interest in the region, I trust therefore that some means will be found to revise such measure.

I should greatly appreciate it, dear Admiral Stone, if you will acknowledge that the Italian Government, as far as they are concerned, reserve the most ample reserves as to the acquisitions by foreigners of rights and powers under the provisions of the above mentioned General Order.

While I am awaiting to hear from you on this subject, I beg to remain, dear Admiral Stone,

Very sincerely yours,

/signed/ DE GASPERI

2208

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

(120)

AFHQ G 5

3727 24 November 45 ROUTINE

NOV 29 1945

117

UNCLASSIFIED PD

REFERENCE CHARLIE FOUR ZERO ONE EIGHT TWO DATED 22 NOVEMBER ONE NINE FOUR FIVE PD

PAREN TO AFHQ G FIVE ALCOM CITE ACMSF PAREN

PAREN ALL PAREN GOVERNMENT HAS NO INFORMATION AS TO ALLEGED CRIMES PD

PAREN PAREN PAREN ANGELO WAS ACTING DIRECTOR QUESTURA AT POLA AND TRIESTE WAS VICE COMMISSARIO SAME PLACE PD

PAREN CHARLIE PAREN GOVERNMENT IS APPEALING ON BEHALF OF BOTH OFFICIALS PD

PAREN TWO PAREN GOVERNMENT APPEALS FOR SUSPENSION OF EXECUTIONS IN ORDER THAT COMPLETE INFORMATION OF CRIMES CHARGED CAN BE OBTAINED PD

PAREN SAME PAREN SOURCE OF INFORMATION IS VICE INSPECT FROM POLA AND NEWSPAPER PRINTED AT FIUME PD

Public Safety S/C
478427

John W. CHAPMAN
Colonel J.A.G.D.
Director

G.J. LEONE
CWO USA
Asst Adjutant

4634

2209

2210

Exec Comm

C 40182
NOV 221927 Z

C/4118
NOV 220500 Z
PRIORITY

AFHQ FROM G 5
ALCOM ROME

NOV 2 1945

UNCLASSIFIED.

Before consideration can be given to desirability of taking up matter with Jugoslav Government through diplomatic channels desire fuller information as follows (18634): 113 / 21 Nov

A) Alleged crimes.

B) Was ANGELO acting Director Questura of PCLA. This not clear in your cable.

C) Is Italian Government appealing on behalf of ANGELO only.

D) Basis of Italian Government appeal

E) Source of information

AC MAT

ACT ON C.A. SEC
INFO CHIEF COMMISSIONER
EX COMM
P. SAFETY SC
LEGAL SC
FILE 2
SLORT

see m. 118

1633
cf. 12

HEADQUARTERS
31 OCT 1945
A.C.

(CONT (2))

2211

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

2619 cy

(113)

AFHQ G-5 SECTION

Information AFHQ Fr Div. Corps.

8634 21 Nov PRIORITY

NOV 21 1945

UNCLASSIFIED FD

PARA ONE FD PLEASE REQUEST YUGOSLAV AUTHORITIES SUSPEND EXECUTION OF EX ACTING DIRECTOR OF QUESTURA OF POLA FD

PARAN TO AFHQ GEORGE FIVE SECTION FROM AICOM CITE ACCAS PAREN

PARA TWO FD LETTER FD SUGAR FD COMMISSARIO CAPO DOG AMATO ANGELO AND VICE PETER FD SUGAR FD COMMISSARIO TRIOLA AMLETO REPORTED SENTENCED TO DEATH BY YUGOSLAV MILITARY COURT OF FIUME FD

PARA THREE FD ACTION OF THE COURT APPEARS TO BE ULTRA VIRES AND FURTHER DOCUMENTS ARE BEING PROVIDED BY ITALIAN GOVERNMENT WHICH SHOULD BE TAKEN INTO CONSIDERATION BEFORE FINAL SENTENCE CARRIED OUT

Int Distribution:
Ex Commissioner
Public Safety S/C
Legal S/C

1052

See folio 117.
" 118 neg
" 120

Civil Affairs Section

437

E. E. ANSON Major,

G. J. LEONE
CWO, USA
Asst Adjutant.

2212

112

HEADQUARTERS ALLIED COMMISSION
Office of the Chief Commissioner
APO 394

TO THE SUPERINTENDENT OF THE PRISON IN TRIESTE

AND TO ALL WHOM THESE PRESENTS SHALL COME :

WHEREAS on the first day of August, 1945, before a Superior Military Government Court sitting in Trieste JACHETIC Giorgio was convicted of the offence of unlawful possession of firearms punishable under Proclamation No 1, Article IV, Section 5 and was thereupon sentenced by the said Court for his said offence to eighteen months imprisonment,

AND WHEREAS it is in my judgment expedient that a pardon should be extended to the said JACHETIC Giorgio,

NOW, THEREFORE, I, ELLERY W. STONE, Rear Admiral, USNR, Chief Commissioner, Allied Commission, in exercise of the powers vested in me do hereby grant unto the said JACHETIC Giorgio a free and unconditional pardon in respect of the said conviction thereby pardoning, remitting and releasing unto him all pains and punishments whatsoever that from the said conviction may ensue; and I do hereby command all courts and persons whom it may concern that they take due notice hereof.

AND by these Presents do authorise and command the Superintendent of the Prison in which the said JACHETIC Giorgio is confined to discharge the said JACHETIC Giorgio from such prison, and for so doing this shall be a sufficient warrant.

IN WITNESS whereof I have set my name this day of November 1945.

ELLERY W. STONE

ELLERY W. STONE,
Rear Admiral, USNR,
Chief Commissioner,
Allied Commission.

4031

see A 112

2213

2619

104

INCOMING MESSAGE

HEADQUARTERS ALLIED COMMISSION

Originator's Reference: 8/4/121
Date/Time of Origin: OCT 301630A

Message Centre No: G/2458
Date Time Rec'd: OCT 311030A
Precedence: IMPORTANT

OCT 31 1945

FROM: AMG 13 CORPS FROM BOWMAN

TO : HQ ALCOM CITING ACEXC PERSONAL TO STONE

103

RESTRICTED.

Reference your 7743 dated 27 subjet JACSETIC.

Widespread felling among civilians of all categories that sentence excessive particularly when compared to those imposed in POLA for actual assaults on Allied personnel. General impression is charge was far fetched and actual crime for which JACSETIC was punished was his political views. Feeling that sentence excessive or that subject should not have been convicted at al extends beyond VENEZIA GIULIA as witness petition for clemency from leading Italian journalists of many political shades. Political balance in this area is delicate and I feel our reputation for fairness and tolerance would be enhanced by clemency with no hint of weakness implied. When subject was freed to visit his son reaction from press and public was very favourable with no objection from anyone. Statement that case was being forwarded for review also well received and general impression then was that reduction of sentence would show justice rather then vulnerability to pressure of which there has actually been very little. After first sensation of conviction all left wing papers hoping and expecting full sentence would not be served have maintained moderate tone on the case which will not continue much longer.

DIST

ACTION: Ex Commissioner 2
INFO: Chief Commissioner
File

106 107
108 & 112

2214

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

(103)

file

AMG XII CORPS

7743 27 October 1945 IMPORTANT

RESTRICTED

TO BOWMAN FROM STONE PAREN TO ABLE MIKE GEORGE THIRTEEN CORPS FROM HOW QUEEN ALCOM CITE ACEXC PAREN NEITHER IN ANY SIGNAL NOR IN YOUR LETTER OF ONE SIX OCTOBER DO YOU EXPLAIN WHAT WILL BE THE POLITICAL OR PUBLIC RELATION RELATION BENEFITS WHICH MIGHT ACCRUE FROM AN ACT OF CLEMENCY IN THIS CASE PD ON RECEIPT OF SIGNAL GIVING SUCH EXPLANATION I WILL CONSIDER THE CASE

4629

Office of the Exec Comm.

343

J/Cmdr.
PA To the Executive Commissioner.

PA 30/1P

2215