

2216

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

785017

ACC

10000/109/604

TRIA
YUGO
AUG.

2217

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

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10000/109/604

TRIAL OF ITALIAN OFFICERS IN
YUGOSLAVIA
AUG. 1944; NOV. 1944 - JULY 1945

27 41

note

Ref 34 & 36 spoke M. Citadini.

Believe we have given all the assistance possible thro' military channels.

He will ask M/FA what is latest position & in what way they think we can help further.

14/7/45

~~412~~

PA 23/7/45

~~412~~ Foreign Affairs Ministry's Aide - Memuire
B. Jul. 45 does not appear to call for action.
In light of constant changes I suggest we
await further developments.

W. R. Jones
(Pol. Ad. (Am.) 8.8.45)

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

785017



2448/1126

2620

42

confidential*Ministero degli Affari Esteri*

JUL 30 1945

AIDE-MEMOIRE FOR THE ALLIED COMMISSIONSubject: Trial of Italian Officers in Yougo-
slavia.

1. Reference is made to the Memorandum of the Ministry of Foreign Affairs number 6/2049/932 dated July 4th.

42 2. The Ministry of Foreign Affairs beg to inform the Allied Commission that they have now been notified that Captain SCOCCHIA and Captain PAGANONI, who have been for a few months detained in a Yugoslav prison, have repatriated to Italy. Capt. Paganoni has reported that Major FERRO and Capt. PANICUCCI have been condemned to death and shot respectively on March and June last.

As far as General ISASCA is concerned, it appears that Marshal Tito has accepted his petition and has ordered that a new trial take place.

Rome, July 28th 1945

42049/932 of 4/7 was sent to Point A

G/V when copy comes to us

Rw153/7

(Mr. Kinsley)

P/A B/C 1/4

(1 spare copy)

B/V

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6/2049/932

TRIPLICATE

Confidential

Ministero degli Affari Esteri

AIDE-MEMOIRE FOR MR. GOSHIE

Subject: Trial of Italian officers in Yugoslavia.

1. Reference is made to Mr. Goshie's conversation with Marchese Cittadini of June 21st.

2. The Ministry of Foreign Affairs would appreciate viewing the minutes of the trial of General Isasca and Captain Panicucci, already condemned to death and now awaiting execution, as well as the charges and the preliminary proceedings against Major Ferro, Captain Faganoni and Captain Sconocchia, who have been committed to trial by the Yugoslav Authorities.

3. As regards an Allied intervention in favour of the aforesaid officers, the Ministry of Foreign Affairs suggest that the proper Allied Authorities draw the attention of the Yugoslav partisans to the necessity of relieving the officers condemned to death. Even abstracting from the consideration that there are sufficient grounds to believe that General Isasca and Captain Panicucci are not guilty of the crimes with which they are charged, it should be borne in mind that this two officers, since September 8th, passed with all their troops (who subsequently formed the kernel of the Garibaldi Division) to the side of the partisans against the Germans.

The same may be said of the three other officers.

4. The Ministry of Foreign Affairs thank the Allied Commission for those steps they will see fit to take in the matter.

(signed)
DEL BALZO

Rome, July 4th, 1945

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Copy for Maj. R. W. Kenney

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Ex Comm

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

FHT/AMB/j

G-5: 091.713-4 (Italy)

8 July 1945

JUL 10 1945

SUBJECT: Italian officers under arrest in Yugoslavia.

TO : Headquarters, Allied Commission, APO 394.

Reference your letter 2620/38/EL of 28 June 1945.

1. This headquarters has already represented this matter to Marshal Tito through the Military Mission attached to his staff with the results stated in our letter of 11 March and repeated in our letter of 22 June 1945.

2. This headquarters does not consider that it can appropriately take any further action in this matter.

For the Assistant Chief of Staff, G-5:

F. T. Hammond, Jr.
F. T. HAMMOND, Jr.,
Colonel, G.S.C.

see M. 41

27/32
23/7

15 July
(Not Noted)

2 2 2 2

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39

Tel: 478201

7 July 1945.

Ref: 2620/39/EC.

SUBJECT: Trial of Italian Officers in Yugoslavia.

TO : Allied Force Headquarters,
Attn: G-5 Section.

A reply to our letter 2620/38/EC dated 28 June 1945 as soon as possible would be appreciated.

For the Chief Commissioner:


Brigadier,
Executive Commissioner.

B/u 11 7
Noted

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11 7

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

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38

Tel: 178201

Ref: 2620/38/EC.

28 June 1945.

SUBJECT: Trial of Italian Officers in Yugoslavia.

TO : Allied Force Headquarters,
Attn: G-5 Section.

1. With reference to our letter 820.42/EC(L) dated 7 June and yours G-5: 091.7134 Italy of 22 June received only today, attached is copy of Memorandum 6/1847/045 dated 22 June from the Ministry for Foreign Affairs. A copy of the Memorandum referred to in the last para was enclosed with our letter 8002/9/EC dated 9 June 45.
2. Your prompt advice for dealing with this matter would be appreciated.

For the Chief Commissioner:

S/E TALBOT
✓ Brigadier,
Executive Commissioner.

Incl:
memo, 6/1847/045 dat 22 Jun 45.

See 39

B/O
Noted
29/6

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Liaison Div

37

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 091.713-4 Italy.

22 June 1945.

JUN 28 1945

SUBJECT: Trial of Italian officers in Yugoslavia.

TO : Headquarters, Allied Commission, APO 394

35.

Reference your 820.42/EC(1) dated 7 June.

AGAIN

1. You are requested to explain to the Italian Ministry of Foreign Affairs that they should approach the Yugoslav Government through the Yugoslav Mission at BARI as suggested in our letter of 11 March. Alternatively they could represent their case to the Yugoslav Government through the Yugoslav delegate to the Advisory Council.

2. For your information one of the named officers (PANICUCCI) is listed as a war criminal at the instance of Yugoslavia by the United Nations War Crimes Commission: a copy of the list is in your possession.

for information
CHARLES M. SPOFFORD,
Brigadier General, G. S. C.,
Assistant Chief of Staff, G-5.

28 June
✓
(Not Noted)

(1 spare copy)

See 374729

Ministero degli Affari Esteri

CONFIDENTIAL

URGENT

JUN 25 1945

MEMORANDUM FOR THE ALLIED COMMISSION

Subject: Trial of Italian Officers in Yugoslavia.

1. Reference is made to Memorandum S20/42/EC(L) of May 26th. of the Allied Commission.
2. The Ministry of Foreign Affairs beg to inform the Allied Commission that, pursuant to the suggestion of the A. F.H.Q., they charged one of their officials to approach the Yugoslav Mission in Italy in order to obtain some information concerning the Italian Officers and other ranks committed to trial in Yugoslavia. In the absence of Mr. Smolaka, the Yugoslav acting Delegate directed, however, that the aforesaid Official be informed that Yugoslavia considers herself still at war with Italy and that he had received precise instructions from the Head of the Delegation not to enter into any official contact with the Ministry of Foreign Affairs.
3. In the light of these informations the Ministry of Foreign Affairs beg to draw once again the Allied Commission's kind attention to the question and in particular to the Memo-

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concerning the Italian Officers and other ranks committed to trial in Yugoslavia. In the absence of Mr. Smolaka, the Yugoslav acting Delegate directed, however, that the aforesaid Official be informed that Yugoslavia considers herself still at war with Italy and that he had received precise instructions from the Head of the Delegation not to enter into any official contact with the Ministry of Foreign Affairs.

3. In the light of these informations the Ministry of Foreign Affairs beg to draw once again the Allied Commission's kind attention to the question and in particular to the Memorandum n.6/1576/724 of June, 5th., 1945.

Have - 804/50

4. As regards the statement that Yugoslavia considers herself still at war with Italy, it may be recalled that the former (as pointed out in the Ministry's Memorandum 6/1474/679 of 29th. May 1945 concerning certain incidents provoked at Catania by Yugoslav Navy personnel) is held to the observance of the Armistice between Italy and the United Nations, and that the status of co-belligerent was recognized to Italy by the Allies as regards all the United Nations, including Yugoslavia.

Left
MINISTRI
1728

Rome, June 22nd., 1945

Dec 38

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

WEE/sem

Ref: 820.42/X(L)

7 June 1945

SUBJECT: Trial of Italian Officers in Yugoslavia

TO : G-5 Section, Allied Force Headquarters

1. Further reference to your 11 March letter no. 091.713-1 (Italy).
2. By our 26 May letter, no. 820.42/X(L), this position was made clear to Italian Ministry of Foreign Affairs (see attached copy).
3. To this letter Italian Ministry made verbal reply that Yugoslav Commission could not be contacted.
4. Italian Ministry now amplify the matter by their 5 June memorandum no. 6/1575/724, copy of which is enclosed.
5. It will be appreciated if this office is advised what further reply may be given to the Italian Ministry of Foreign Affairs.

For the Chief Commissioner:

Officer-in-Charge
Liaison Division

2 Encls:

- 1 - Copy of ltr dtd 26 May 45, no. 820.42/X(L)
- 2 - " " memo no. 6/1575/724 of 5 June 45.

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Ministero degli Affari Esteri

34
2/1975/424

MINISTERO DEGLI AFFARI ESTERI

Subject: Trial of Italian citizens in Yugoslavia.

Reference is made to communication N. 1/2255/523 of 12/1/75.

The Ministry for Foreign Affairs has to forward the following additional information concerning the Italian officers detained by the Yugoslav Partisans.

- a) Major Ruffo is detained at Bergamo with the other officers, and not at Gattorna as previously stated.
- b) The death sentence pronounced against General IASCO awaits confirmation by the People's Court at Bergamo, and not by Marshal Tito.
- c) Captain FANTUCCI's situation would be similar to General IASCO's, and Captain FANTUCCI, formerly indicted as condemned to death, would be awaiting trial by the People's Court at Bergamo together with Major Ruffo and Captain BUCI.

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[illegible]

c) Capt. WILKIN, an Indian soldier of "rank", is now imprisoned in the town square with advice accepted from the Revolutionary Forces in February 1944, and it is feared that he will be condemned to death.

e) In an attempt to establish that the Committee to David L. Marshall, formerly known as the Technical Office of the House of Representatives, has been established there are several other things to consider with having related and engaged in the same. Though he has been a member of the same. That he acted for the Committee to David L. Marshall is established also in the case.

[Signature]

1. *Chlorophyll a* (Chl *a*)

of June 1920

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785/1008

REF: 830.42/10(5)

26 May 1945

SUBJECT: Trial of Italian Officers in Yugoslavia

TO : Italian Ministry of Foreign Affairs

1. Reference is made to your memorandum no. 6/1255/33 of 7 May 1945, which replies to March letter 830.42/10(5) of this office.
2. The letter clearly exposed AMH's suggestion that the Italian Government approach the Partisans thru their Mission in Italy; the latter having expressed their willingness to invite an Italian delegation to examine and report on the trials.
3. The desirability of such an approach having been repeatedly brought home to the Liaison Officer of the Ministry of Foreign Affairs, Marchese Cittadini, it seems indicated at this time to reiterate A.F.H.Q.'s recommendations, with special emphasis on their importance and intent.
4. So that AMH may be informed of any results of their suggestions, please communicate same to this office at earliest opportunity.

Officer in Charge
Liaison Division

*Cittadini said today
that if AMH had not succeeded in
getting in touch with any Yugoslav
representatives
before AMH's letter from
Czechoslovakia + gave them shock
info.*

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Whether
 Italian Govt took action &
 approach the Ugo star Museum
 as suggested in AOHQ. G-5

G-5 091.713-4 - Italy
 11 March 45

Col Anderson Aug 58

Exo. 42/EC (L)
 15 May.

One at War Crimes Inst

2 2 3 2

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ROUTING SLIP

ate

LIAISON DIVISION
Office of the Executive Commissioner

FROM

TO

	Liaison Division	
	Chief Commissioner	
	Executive Commissioner	
	Political Adviser American British	
	Civil Affairs Section	
	Economic Section	
	Establishments Section	
	Air Forces Sub-Commission	
	Commerce Sub-Commission	
	Communications Sub-Commission	
	Displaced Persons and Repatriation Sub-Commission	
	Finance Sub-Commission	
	Land Forces Sub-Commission (MMIA)	
	Legal Sub-Commission	
	Navy Sub-Commission	
	Public Safety Sub-Commission	
	Shipping Sub-Commission	
	War Materials Disposal and Italian Prisoners of War Sub-Commission	

..... Appropriate Action Comment and Return

..... Approval and Return Note and Pass On

..... Information and Retention/Return

COMMENT:

.....

.....

.....

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AW/cem

Ref: 820.42/EC(L)

15 May 1945

SUBJECT: Trial of Italian Officers in Yugoslavia

TO : G-5 Section, Allied Force Headquarters

1. Enclosed is a copy of a memorandum, no. 6/1255/583 of 7 May 1945 regarding the above subject.

2. This memorandum is self-explanatory and particular attention is called to paragraphs 3, 4 and 5 regarding five Italian officers who are still under arrest, two of whom have been tried and condemned to death.

3. It would be appreciated if you would inform this office what reply may be given to the Italian Ministry of Foreign Affairs.

For the Chief Commissioner:

Officer-in-Charge
Liaison Division

1 Encl: Copy of Memo No. 6/1255/583 dated 7 May 45.

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

Ministero degli Affari Esteri

(31)
6/1257 273

MEMORANDUM FOR THE UNITED STATES EMBASSY

Subject: Trial of Italian officers in Yugoslavia.

30

1. Reference is made to Memorandum SAC, 4/13(1) of March 1944, of the Allied Commission.

2. The Ministry for Foreign Affairs wish to ascertain the Allied Commission with the following additional information concerning the Italian officers detained in the delay party.

3. The Ministry for Foreign Affairs, whose names were indicated in the Memorandum 5/136/44 of the Ministry for Foreign Affairs, have been fully acquitted and repatriated with the "Carabinieri" Division. Their release was ordered by General Milosevic, Military Commander of Montenegro and Dubrovnik, who has also expressed his own and the Yugoslav Government's interest for their arrest and trial. The Ministry for Foreign Affairs has the Allied Commission to which General Milosevic in the name of the Italian Government for the continuing release extended to other Italian officers.

3. The following 5 Italian officers are still under arrest:

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These Italian officers are still under arrest.

3. The following 5 Italian officers are still under

arrest:

- | | | |
|-------------------------|---|---------------------|
| 1. General IASCA, Carlo | { | detained at Trieste |
| 2. Captain PA, ... | | |
| 3. Captain PACHETTI | | |
| 4. Captain S. ... | | |
| 5. Major ... | | detained at Trieste |

General Iasca and Captain Pachiotti have been tried and sentenced to death. The sentence has not been yet carried out as it awaits confirmation by Marshal Tito.

General Iasca is charged with presiding in 1943 over the Military Court of Trieste which sentenced to death 27 in 1943. Even if we admit the fact that 27 were sentenced to death, General Iasca never presided over the sentences of witnesses General Iasca never presided over an formed part of a Military Court, it is certain that all the action of the laws of warfare and all charges connected therewith must be referred to the War Crimes Commission in London.

W. ...

1.

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according to the procedure envisaged by the Moscow Declaration of October 1943.

The same applies to the other three officers, who are charged with carrying out police operations against partisans.

4. The Ministry for Foreign Affairs has to draw the attention of the Allied Commission to the urgency of approaching the Command of the Yugoslav Army, in order to obtain that the proper Military Authorities should suspend the execution of the death sentences and conform with the procedure already recommended by the Yugoslav Government who have repeatedly submitted to the London Commission the charges against the criminals of war.

It is not clear, in fact, on what grounds the Yugoslav Government, having recognized the competence of this International Body, should carry out on their own initiative both the trials and the execution of the sentences.

5. The Ministry for Foreign Affairs lastly wish to point out the execution of a death sentence pronounced against Italian officers without any guarantee of justice, which follows the execution of three Italian officers which took place in August 1944, on charges which have not been made known, could react very unfavorably on Italian public opinion.

6. The Ministry for Foreign Affairs will be very grateful for those steps which the Allied Commission will see fit to take in the matter.

[Handwritten signature]



Rome, 7th. May, 1945

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(30)

Liaison Division

Ref: 820.42/EC(L)

26 March 1945

SUBJECT: Trial of Italian Officers in Yugoslavia
TO : Italian Ministry of Foreign Affairs

(17)

1. Reference is made to memorandum no. 6/196/92 of 17 January 1945.
2. Information has been received that the Partisans are willing to give full details of the trials, but it is their view that the Italian Government should approach them directly through their Mission in Italy. The Partisans further state that they have nothing to conceal and are willing to invite an Italian Delegation to examine and report on the trials.
3. This information is passed to the Ministry for such action as they may wish to take with the Yugoslav Government.
4. It is requested that the Ministry inform this office if it desires any further action taken through military channels.

R

Officer-in-Charge
Liaison Division

820.42

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

SECRET

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

hason
22429
2543
DSJ/AMB/jjjr

Confidential

11 March 1945

G-5: 091.713-4 (Italy)

SUBJECT: Trial of Italian Officers in Yugoslavia.

TO : Headquarters, Allied Commission, APO 394

1. With further reference to your enquiry of 26 January 1945 (Ref: P/820.42) this Headquarters is in receipt of a suggestion from Brigadier MacLean, paraphrased as follows:

"The Partisans are willing to give full details of the trials but it is their view that the Italian Government should approach them directly through their mission in Italy. They state that they have nothing to conceal and are willing to invite an Italian delegation to examine and report on the trials."

2. It is suggested that you advise the Italian Government of the above for such action as they may wish to take with the Yugoslav Government.

3. If the Italian Government desires to have further action taken through military channels, we shall continue to press the matter through Brigadier MacLean. Meanwhile we are notifying him of the present position.

For the Assistant Chief of Staff, G-5:

D. M. Jackling
D. M. JACKLING
Colonel.

14 MAR 1945

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

785017

XXXXXXXXXXXXXXXXXXXX

Office of the Executive Commissioner

Ref: D/820

24 March 1945

SUBJECT: Disappearance of Italian Officer of the Garibaldi Division
TO : Italian Ministry of Foreign Affairs.

1. Reference is made to memorandum no. 6/559/156 of 3 February 1945.

2. The appropriate Yugoslav authorities have been asked to make the necessary enquiries concerning this officer, but as they will have to communicate with their Headquarters in Belgrade, some little time may elapse before the reply is received.

R
Captain,
For Brigadier
Executive Commissioner

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

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

Maj Stewart

TBJ/as

G-5: 091.713-4 Italy

10 March 1945

SUBJECT: Treatment of Italian Civilians by Jugoslavs.

TO : Headquarters, Allied Commission, APO 394.

1. Reference your P/820 of 26 February concerning 2/Lt Tolia and G-5: 091.713-4 (Italy) of 5 March, attached for your information is copy of HQ 34 Military Mission JUG/C/9/5 of 7 March.

2. Any further information will be passed to you as it comes to hand.

For the Asst. Chief of Staff, G-5:

T. B. Jackman
T. B. JACKMAN
Lt. Colonel

4718

Incl: as above

Copy to: G-2(3I) Balkans

2241

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

785017

COPY

SUBJECT:- 2/1 TOLIA

HQ 34 Military Mission,
CMF.

JUG/G/9/5
7 Mar 45

APHQ
G-5 Section
APC 512

Ref your G-5: 091.713-4 (ITALY) dated 5 Mar 45.

1. We have asked JUGOSLAV Army in ITALY to make the necessary enquiries about this officer.
2. As they will have to communicate with their HQ in BELGRADE and other sources it will take some little time to receive a reply and even so, from past experience, we are afraid that the answer will not be satisfactory.

HH-J/AP

Lt. Col
for Commander

4717

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II.

Pl. on the ~~attached~~ memo. from the M. J. M.
(6/19/92 by Jim. Hk.) regarding the fate of certain
Ic. officers held by the Yugoslav Government.

2. There has also been 5" have been any reply
to AFHQ's cable. Dec. 4th. & Dec 13th. 5" are
Nuclear mission. I suggest that we ask AFHQ.
to send a document.

23/10/22

Ad Seal.

Ja mes.

1/25/11

Received
for A.V.C. (Box)
H. Sec.

9516

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

785017

(24)

XXXXXXXXXXXXXXXXXXXX

Office of the Executive Commissioner

Ref: P/020.42

11 March 1945

SUBJECT: Italian Officers in Yugoslavia

TO : Italian Ministry of Foreign Affairs

1. Reference is made to memorandum no. 6/706/301 of 6 March 1945 from the Ministry of Foreign Affairs, concerning the treatment of certain Italian Officers by the Yugoslavs.

2. It is regretted that no further information on this subject is at present available.

3. It is the opinion of the competent military authorities that the Ministry's telegram no. 17 of 22 January 1945 should not be forwarded at this stage.

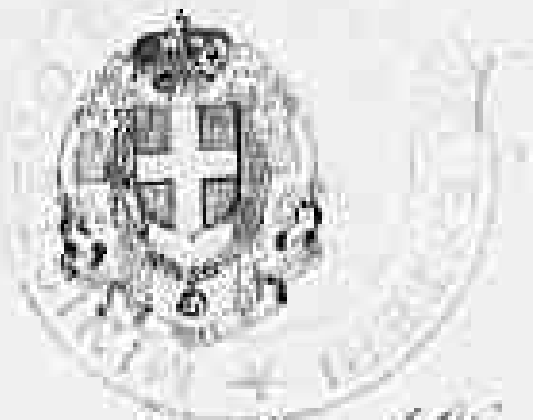
Captain,
for Brigadier,
Executive Commissioner.

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

785017

*Ministero degli Affari Esteri*

6/705/301

MEMORANDUM FOR THE ALLIED COMMISSION

The Ministry for Foreign Affairs, with reference to preceeding Memoranda on the subject concerning General ISASCA and other Italian officers held as prisoners by the Yugoslav Army, and lastly to the Memorandum N. 285/67 of January 10th., beg the Allied Commission to kindly acquaint them with those steps which may have been taken in order to obtain the release and repatriation of the aforesaid officers.

bW4



Rome, 6th. March, 1945

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Pol Div AH
(22)

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

DSJ/TBJ/as

G-5: 091.713-4

5 March 1945

SUBJECT: Treatment of Italian Officers by Jugoslavs.

TO : Headquarters, Allied Commission, APO 394.

1. Reference is made to your P/820.42 of 26 January.
2. G-3 report that the present position of the nine Italian officers under enquiry has been referred to 37 Military Mission and their reply is awaited.
3. G-3 are of opinion that the Ministry's telegram to Moscow should not at this stage be forwarded through military channels.

For the Asst. Chief of Staff, G-5:

HEADQUARTERS
7 MAR 1945
A.

D. S. Jackling
D. S. JACKLING
Colonel

Cpl. Jackling

Reference to be taken by Major General
(for the subject matter)

4513

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

SECRET

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 091,713-4 (Italy)

5 March 1945

SUBJECT: 2/Lt. TOLLA.

Confidential

TO : 34 Military Mission.

1. The Italian Ministry of Foreign Affairs has asked for information about 2/Lt Gianni TOLLA of the 83rd Inf. Regt, VENETIA Div, and later 2 Bde GARIBOLDI Div.

2. 2/Lt Tolla was believed to have been captured in BOSNIA by the Germans and was interned at RAGUSA (NUROVNIC). On the liberation of the city he refused to follow the Germans and joined the partisans.

3. Towards the end of November (presumably 1944) 2/Lt Tolla is said to have left RAGUSA by car in company with some partisans and since then nothing more has been heard of him. The Italian Government believes that he had been arrested by the partisans, on the charge "it is said, of carrying out propaganda in favour of the Allies".

4. Will you please make enquiries to ascertain what has become of this officer.

Spd Dst

f CHARLES M. SPOFFORD,
Brigadier General, U.S.C.,
Assistant Chief of Staff, G-5.

Copy to: HQ, Allied Commission, APO 394
(your P/820 of 26 Feb. refers).
G-2 (CI) Balkans.



SECRET

12

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

(20)

Ref: 2/820.42

26th February 1945

Subject: Treatment of Italian ^{OFFICERS} civilians
by Yugoslavia.

To : G-5 section, Allied Force Headquarters.

With reference to this section's letter No. 520 of the
25th January 1945.

2. A copy is attached of a further memorandum from the
Italian Ministry of Foreign Affairs reporting the
abduction by the Yugoslav authorities of an Italian officer
of the 3rd Infantry Regiment. (17)
3. The Political Section would be grateful if enquiries
could be made regarding this incident and a report
thereon furnished for transmission to the Italian authorities.

For the Chief Commissioner:

H.L.D'A. HOPKINSON,
Acting Vice-President,
Political Section.

1 enc: copy of memo. from Italian
MFA dated 3rd February 1945. (19)

Copies to: Executive Commissioner, Allied Commission.
Civil Affairs Section.
British Resident Minister, AFHQ.
U.S. Political Adviser.
U.S. Embassy.
British Embassy.
Representative at Head of the British Resident Minister.

820.42

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

Ministero degli Affari Esteri

Subject: Disappearance of an Italian
Officer of the "Carabinieri" Division.

(17)

b/359/156

MEMORANDUM FOR THE POLITICAL SECTION A.C.

b/

(17)

The Ministry for Foreign Affairs, with Memorandum N. 5/1022/194 of November 1944 and N. 5/195/9 of January 1954, have interested the Allied Commission in the trial and execution of some Italian officers carried out by units of the Yugoslav National Army of Liberation.

The Ministry for Foreign Affairs have now been acquainted with another very serious case, to which they feel bound to draw the attention of the Allied Commission, i.e. to the disappearance of the Lt. Gianni Telli of the 935 Regt. of Infantry, "Venezia" Division, a member, since the foundation, of the 2nd Brigade of the "Carabinieri" Division.

According to information furnished by an officer and A.C.O. of the latter Division, recently repatriated, Lt. Telli, captured in Bosnia by the Germans and interned at Ragusa, refused on the liberation of their city to follow the Germans and joined the partisans. These, however, arrested him on the charge, it is said, of carrying out propaganda in favour of the Allies. According to other reports he would have been victim of the revenge of a Yugoslav political Commissioner, whom he reported to his superiors for attempting violence against the wife of an Italian medical Captain.

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

According to information furnished by an officer and N.C.O. of the 1st Infantry Division, recently repatriated, Lt. Polla, captured in Bosnia by the Germans and interned at Hagusa, refused on the 11th of October to follow the Germans and joined the partisans. However, according to the charges, Lt. Polla, of carrying out propaganda in favor of the Allies. According to other reports he would have been victim of the revenge of a Yugoslav nationalist communist, whom he reported to his superiors for attempting violence against the wife of an Italian medical captain.

At Trieste (Slovenia) the mortar company commanded by Capt. Polla was personally commended by Marshal Tito.

Towards the end of November he left Hagusa by car in company of some partisans and since then nothing more has been heard of him.

This new respectable incident confirms the already reported attitude of the Yugoslav partisans towards the Italian soldiers who volunteered to fight with them and the Ministry for Foreign Affairs has therefore the Italian Commission to do all that is possible in order to obtain precise information on the fate of Lt. Polla.



ROME, 12th February 1945

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

Copies to: Chief of Staff, A.C.
Deputy Chief of Staff, Civil Affairs Section, A.C.
British Resident Minister,
U.S. Political Adviser,
American Embassy,
British Embassy,
Rep. at Bari of the B.R. Minister.

(18)

Ref: 410.42

26th January 1945

SUBJECT: Treatment of Italian Officers
by Yugoslavs.

TO : G-5 Section,
Allied Force Headquarters.

(13)

Reference your letter G-5 091.713-4 (Italy) of
December 15th.

1. There is attached a copy of a further memorandum from the Italian Ministry of Foreign Affairs enquiring whether any progress has been made towards the release and repatriation of certain Italian officers held by the Yugoslav authorities.
2. The Political Section also encloses a copy of a telegram which the Ministry of Foreign Affairs desire to send to the Italian Embassy at Moscow, on the same subject.
3. We should be glad to learn whether any replies have been received to the two cables to Brigadier Maclean copies of which formed the enclosures to your memorandum under reference. If the information requested in the cables has not yet been received, the Political Section suggests that the Ministry's telegram to Moscow should be forwarded through military channels, subject always to over-riding military objections on the part of Allied Force Headquarters.

820.42

For the Chief Commissioner:

H.I.A. HOPKINSON,
Acting Vice President,
Political Section.

2 enclosures: memo. from MPA
dated 17.1.45.

(17)

telegram from MPA No. 17
to Italian Embassy at Moscow,
dated 22.1.45

(16)

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

Ministero degli Affari Esteri

(17) Cpl. [unclear]
C/196/92 [unclear]
[unclear]

MEMORANDUM FOR THE COMMISSIONER GENERAL

(b)

Reference is made to Memorandum of this Ministry number 3/1205/134 of 14th November 1944, concerning the prosecution and execution by Yugoslav Partisans incorporated in the Yugoslav National Army of liberation of Lt. Colonel ANTONIO LILLI, Major Antonio LILLI, Captain LILLI. In the same Memorandum it was also mentioned that other Italian officers were kept under inquiry by the Command of II Corps N.C.V.V.

The Italian General Staff have now informed this Ministry that on November 27th, according to news brought by an officer of the "Gariboldi" Division, recently refortified, General LILLI and Captain LILLI were detained in jail by the Command of said II Corps at Niksic. Furthermore, on such a date, the following officers of the "Gariboldi" Division were living in the outskirts of Niksic:

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

on November 27th, according to news brought by an officer of the "Guerrilla" division recently repatriated, General Icard and Captain PALLONCI were detained in jail by the command of said II Corps at Niksic. Furthermore, on such a date, the following officers of the "Guerrilla" Division were living in the outskirts of Niksic:

- 1) - Colonel BUK - formerly commander of 15th art. of. "Guerrilla" Division.
- 2) - Lt. Col. BABINI - formerly belonging to the 15th art. of. "Venezia" Division.
- 3) - Lt. Col. MARINO - formerly commander of II/30th art. of. "Venezia" Division.
- 4) - Major Dr. MARINIS -
- 5) - Captain POLA - formerly belonging to the 15th art. of. "Venezia" Division.
- 6) - Captain PORRIANO - formerly civil delegate at Molise.
- 7) - Captain PALLONCI - formerly civil delegate at Benevento.
- 8) - Captain SCORRONE - formerly commander of 17th art. of. Carabinieri Division "Venezia".

D.C.C.

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The above mentioned officers, although free to circulate, were kept under a very strict surveillance. From other reliable sources it appears moreover:

General Isasca and Capt. Panicozzi of the Division "Venezia" have been seen on 24th December at Bata (Bosnia di Cattaro) while they were transferred under arrest from Niksic to Cetinje where the Command of II Korpus N.O.V.Y. and the Government of Montenegro were then located.

General Isasca appeared tied by the wrist to another civilian and his physical conditions seemed to be very serious showing his deep suffering.

Capt. Panicozzi, who was also hand-cuffed, begged an Italian officer to inform the Command of the Division "Carabinieri" of the situation.

According to another reliable information, it seems that the Italians had at that time already executed 35 persons; therefore, very few hopes seem to remain about General Isasca being still alive, and if alive that he can be saved.

The other Italian officers under inquiry at the Command of II Korpus N.O.V.Y. were at the date of December 18th, 1944, in the hands of the Yugoslav Communists and

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

According to another reliable information, it seems that the persons had at that time already executed 35 persons; therefore, very few hopes seem to remain about General Isasesa being still alive, and it is alive that he can be saved.

The other Italian officers under request at the Gen and of II Kommando N.C.V.V. were at the date of December 1944, kept at Jateinde. On each of them the Yugoslav partisans have brought several charges.

The Ministry for Foreign Affairs would be grateful if the Political Section could inform about the steps which have been taken in the matter with the view to obtaining the release and the repatriation of the above mentioned Italian officers. This Ministry wish to emphasize the urgency of the matter and trust that the Allied Authorities will take it into their most favorable consideration. *Gold*

ROME, January 17th, 1945.

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

Info
Spedia
Trall
Fin

(16)
 R. MINISTERO DEGLI AFFARI ESTERI
 TELEGRAMMA IN PARTENZA
 P

1. Coll. 310

Capella

Data 22/11/45

Procedi A.C.

Procedi a Italian Embassy MOSCOW

Procedi a 17 - January 22.

Last August members of Yugoslav Army of National Liberation summarily tried and shot two senior Italian officers and a captain of the Garibaldi Division. The charges made out against them were absolutely irrelevant i.e. changing into Italian a Slav surname, alleged ill-treatment of Italian soldiers, etc.

Furthermore, since November last, other eleven officers of the same Division are reported detained by the Command of the 11 Yugoslav Corps, among which General Isasca and four senior officers. It has not been possible to obtain information as regards their charges. Their physical and moral conditions are reported as being very distressing.

Steps have already been taken through the Allied Authorities protesting against the unwarranted detention and asking the suspension of the proceedings and the repatriation of the officers.

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

which General Isasca and four senior officers. It has not been possible to obtain information as regards their charges. Their physical and moral conditions are reported as being very distressing.

Steps have already been taken through the Allied Authorities protesting against the unwarranted detention and asking the suspension of the proceedings and the repatriation of the officers.

Please interest that Yugoslavian Ambassador in approaching his Government on the matter with a view to obtaining release and repatriation of the officers, appealing to sense of humanity and justice. Such proceedings are clearly illegal as we must uphold principle that Italian soldiers belonging to regular formations must be tried by Italian courts. Italian feelings revealed by press have been gravely shocked by these events and cannot hide their disappointment in learning of treatment meted out to Italians who ~~had~~ a year fight gallantly and loyally on the side of their Yugoslav comrades against common enemy.

PRUNAS

TO BE CODED

Consequents

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

CC

(13)

1.

TO: COS.

With ref. to Mr. Hepkins's memo. no. 820
 Nov. 26th, you may be interested to see (1) the attached
 reply from G-5, AFHQ, enclosing copies of cables
 despatched to Brig. MacLean + (2) the attached
 copy of a letter from the Office of the Brit. Res. Min. at
 Bari to Costa. H

MS/15/XII

[Signature]
 POLITICAL SECTION

[Signature]

2

Pol Sec

Ref minute 1, documents referred to have been seen by Cos.

20 Dec 44

[Signature]
 Cpt

820.42

[Signature]
 19/12/44

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

OFFICE OF THE REPRESENTATIVE AT BARI
OF THE RESIDENT MINISTER
CENTRAL MEDITERRANEAN

BARI.

12th December, 1944.

WITH LT.COL.DEAKIN'S COMPLIMENTS

H. Hopkinson, Esq., C.M.G.,
Allied Commission,
ROME.

OFFICE OF THE REPRESENTATIVE AT RARI
OF THE RESIDENT MINISTER
CENTRAL MEDITERRANEAN

DATE.

12th December, 1944.

Please see Hopkins' memorandum to O-3 Allied Force Headquarters of the 26th November (marked 820) regarding the trial and execution by Yugoslav Partisan units of three Italian officers of the Garibaldi Division.

Through the good offices of Storm Rize of S.I.L.C., I met this morning Colonel Zitelli, who was with the Garibaldi Division until the 13th August, 1944. Zitelli gave me the following information, which has perhaps some interest:

- (1) Lieut. Colonel Stuparelli. This officer, whose real name is Stupar, was born in Istria. He was a "squadrista" at the age of 15 or 17, and speaks fluent Serbo-Croat, having been on a six months' course to Belgrade before the war. At the time of the Italian collapse, Stuparelli, who was General Oxilia's Chief of Staff, was convinced that the Germans would fight the Germans but when he realised that he had made a mistake he strongly pressed for the Division to join the Partisans. From that moment, he collaborated loyally with the Partisans.

According to eye-witness accounts, Zitelli told me that Stuparelli was not tried publicly but was merely examined by the legal officer of the Partisan 1st Corps. The only reason why he was shot seems to have been that he refused to recognise himself as a Slav from Istria and insisted upon his Italian background.

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

the Italian collapse. Stuparelli, who was General Oxilia's Chief of Staff, was convinced that the Germans would fight the Germans but when he realized that he had made a mistake he strongly pressed for the Division to join the Partisans. From that moment, he collaborated loyally with the Partisans.

According to eye-witness accounts, Mitelli told us that Stuparelli was not tried publicly but was merely executed by the legal officer of the Partisan 1st Corps. The only reason why he was shot seems to have been that he refused to recognize himself as a spy from Italy and insisted upon his Italian background.

The Italian Union Secretary for War, Palermo (Communist), who visited Tito's headquarters when the latter was in Bosnia in the autumn of this year, asked for the dossier of Stuparelli's case but was told that it had been mislaid during the subsequent offensive.

(2) Of the officers mentioned in the aide memoire under reference as being detained by the Partisans, Lieut. Colonel Sabini is apparently known as a monarchist sympathizer and as such, would be persona non grata to the Partisans. Captain Pandicucci, whose unfortunate surname then translated into Serbo-Croat means "the burner of houses", had the further misfortune to command a battalion in Mussolini's forces in Spain and was on the same front as General Dabcevic, the present commander of the Yugoslav Partisan 1st Corps.

In general, there seems to be some activity in regard to these Italian troops in Yugoslavia. Mitelli told me that apart from ex-prisoners of war and stragglers generally, who are all now being used as forced labour by the Partisans, there were two main bodies of organized Italian units:

/(c)

Philip Brock, Esq.,
Office of the Resident Minister
Central Mediterranean.

2 2 6 1

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(a) The Garibaldi Division, which is still quartered in Montenegro in the area Niksic-Gacko, and consists of some 3,000 men.

(b) The Garibaldi Brigade of approximately the same strength, which has been recently formed from Italians who had formerly been with the Germans in Serbia. The commander of this brigade, a certain Captain Mongileri, recently went from Belgrade to Rome with Tito's permission. It is believed that he has since returned on a Russian aircraft from Bari. He is alleged to have said that his troops in the Belgrade area were now being armed by the Russians.

Colonel Litelli brought with him another Italian officer who had just come from the Garibaldi Division in Montenegro. This officer stated that in September three commissars recruited from the Italian Communist party were sent in to Niksic (presumably by Russian aircraft) to educate the Italian units there, and that they carried official papers from the Yugoslav Headquarters in Bari. I gather that their efforts were not crowned with success.

It seems therefore that the Italian Communist party are not entirely uninterested in their troops in the Balkans, and hope to make some capital out of their present part in the fight against the Germans and out of their eventual repatriation.

I am sending a copy of this letter to Henry Hopkinson.

(SGD) F.W. DEAKIN

2262

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

SECRET

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

NPS/thh

Confidential
13 December 1944

G-5 091.713-4 (Italy)

SUBJECT: Treatment of Italian Officers by Yugoslavs

TO : Headquarters, Allied Commission,
APO 394.

Reference is made to memorandum from the Political Section, Allied Commission, ref 820, dated 26 November 1944.

The inclosed signals are forwarded for your information.

[Signature]
NORMAN P. SAICHAVE,
Major, G.S.C.,
Executive Officer.

2 Incls:

Cable, SACRED to McLean, 4 Dec. 44, P-62676
Cable, SACRED to McLean, 13 Dec 44, P-67888

4764

SECRET

2263

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

SECRET
AFHQ MESSAGE CENTER
OUTGOING MESSAGE

(12)
Confidential
PRIORITY

TO FOR ACTION: MCLEAN MISSION PERSONAL FOR BRIGADIER MCLEAN
REF NO: F 67888
SIGNED: SACMED CITE: FHGEG

C/4360

1. Further to our F 62676.
2. Officers placed under inquiry by II Corps of Yugoslav National Army of Liberation are: General CARLO ISASCA, Colonel BEJA FELICE, Lt Col MARION SABINI, Major LIONELLO ALBERTINI, Major EUGENIO DE SANTIS, Captain SCOCCHIA, Captain FOPPIANO, Captain PAGANONI, Captain PANICUCCI.
3. Inadequate knowledge of facts here and uncertainty as to legal premises on which Yugoslavs are operating makes clear formulation of legal position impossible at present. However, if proceedings are founded on view that Italian Officers are War Criminals, the Yugoslav Government is understood to be a member of the War Crimes Commission through which agency action should be taken. If proceedings founded on view that Italian Officers are guilty of military offences, it appears that Italian Military Jurisdiction would be appropriate.
4. Request information on charges and present position of matter with a view to possible repatriation of subject officers. TITOS desire for the evacuation of GARIBOLDI Division may be helpful in this connection.

ORIGINATOR: G-5

AUTH: N F SEACRAVE MAJ

INFORMATION: SGS
US POLAD
MR MACMILLAN
G-1
G-1(B)
G-2
C/S MFO
IS&PS
AG RECORDS
**

4703

MC OUT 4731

13 Dec 44

1217A

Ref No F 67888

S/P/J

SECRET

COPY No.

THE MAKING OF AN EXACT COPY OF THIS MESSAGE IS FORBIDDEN

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

SECRET
 HQ MESSAGE CENT.
 OUTGOING MESSAGE

Confidential

PRIORITY

TO FOR ACTION: MC LEAN MISSION PERSONAL FOR BRIGADIER MC LEAN.

REF NO : F 62675

SIGNED : SACMED

CITE: FHGEG

C/4359

1. Italian Ministry of Foreign Affairs has protested against proceedings which allegedly have been taken by Yugoslav authorities against Italian Officers in YUGOSLAVIA. The proceedings it is reported have resulted in the execution of Lt. Col. STUPARELLI, Major MONZANI and Captain CAROTI. Eleven other Officers have been placed under inquiry by Command of the II Corps of the Yugoslav National Army of Liberation. It is claimed that these proceedings are without legal foundation.

2. It is requested that you investigate this matter and if true you undertake to have all further action in these matters suspended for the time being.

3. A report on the legal position will be forwarded shortly.

ORIGINATOR: G-5

AUTH: N P SEAGRAVE MAJ

INFO : SGS
 US POLAD
 MR MACMILLAN
 G-1
 G-1(B)
 G-2
 C/S MTO
 IS&PS
 **

COORD WITH: BRIT RES MIN
 US POLAD

APPROVED BY: C/S

MC OUT 1205

4 Dec 44

1315A

REF NO: F 62676

em/X/G

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THE MAKING OF AN EXACT COPY OF THIS MESSAGE IS FORBIDDEN

Ind #1

785017

February 1994

4. *Chlorophyll a* and *b* contents were determined

[illegible]

on the Adult Learners

John L. D'A. Sullivan
John L. D'A. Sullivan, National Director

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

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

MEMORANDUM

WEB/ap.
17 November 1944.

17 NOV Recd

TO : Chief of Staff.

1. I understand that you are interested in these papers which are accordingly passed to you.
2. They were passed to this Sub-Commission by VP CA Sec for opinion and return to Political Section.
3. There appears to be no action to be taken except to pass the papers to AF HQ without comment.

W. E. Behrens 4760
W. E. BEHRENS, Colonel,
Deputy Chief Legal Advisor.

2267

785017

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

HEADQUARTERS - ALLIED COMMISSION
POLITICAL SECTION

November 17, 1944

TO: Colonel Behrens,
Legal Sub-Commission

FROM: Political Section

Major Talbot, of the Chief of Staff's Office, has informed us that they are interested in the recent matter of the Yugoslav shooting and would like copies of all papers pertaining to this occurrence. So if you will kindly supply the above office with the necessary copies.

W. W. Schott
Joint Vice President

By: *Virginia Thompson*

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

785017

AFHQ FOR GEORGE FIVE
~~XXXXXXXXXX~~~~XXXXXX~~ ALCOM

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Confidential

SECRET

PRIORITY

POLITICAL SECTION

ITALIAN MINISTRY OF FOREIGN AFFAIRS HAVE SUBMITTED TO POLITICAL SECTION LONG AIDE MEMOIRE REGARDING TRIAL AND EXECUTION BY YUGOSLAV PARTISAN UNITS BELONGING TO YUGOSLAV NATIONAL ARMY OF LIBERATION OF LT COLONEL STUPANGLI CMA MAJOR MONZANI CMA CAPTAIN CAROTTI PD PAREN TO AFHQ FOR GEORGE FIVE FROM ALCOM SIGNED STOPS PAREN THEY STATE THAT CHARGES ON WHICH ABOVE OFFICERS WERE TRIED AND SHOT WERE ABSOLUTELY IRRELEVANT FROM JUDICIAL STANDPOINT PD THEY STATE FURTHER THAT SEVERAL OTHER ITALIAN OFFICERS INCLUDING BRIGADIER GENERAL ISASCA CMA FORTUNE COMMANDERS OF THE VIENNA DIVISION HAVE BEEN PLACED UNDER INQUIRY BY COMMAND OF THE SECOND CORPS OF THE YUGOSLAV NATIONAL ARMY OF LIBERATION PD THEY HAVE NOT BEEN ABLE TO OBTAIN ANY INFORMATION REGARDING CHARGES AGAINST LATTER OFFICERS PD PARA PD ITALIAN GOVERNMENT PROTEST POWERFULLY AGAINST THE TRIAL OF ALL THESE OFFICERS AND AGAINST THE SENTENCES PASSED AND EXECUTED ON THREE OF THEM PD THEY DEMAND THAT ANY JUDICIAL OR OTHER ACTION AGAINST REMAINING OFFICERS OTHER INQUIRY SHOULD BE SUSPENDED AND THAT THEY SHOULD BE PROMPTLY REPATRIATED PD THEY REQUEST AID OF THE ALLIED AUTHORITIES IN THIS MATTER PD PARA PD AID MEMOIRE AND SUPPLEMENTARY MEMORANDUM ON LEGAL ASPECTS OF THE QUESTION ARE BEING FORWARDED TO YOU AND BECAUSE IT IS SUGGESTED THAT YOU MAY WISH TO TAKE SUCH STEPS AS ARE POSSIBLE TO SUSPEND ANY FURTHER ACTION BY YUGOSLAV AUTHORITIES FOR TIME BEING

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AIDE MEMOIRE

It appears that on the 15th August last, the following Italian Officers belonging to the "Garibaldi" Division which, as is known, is fighting under Marshal Tito's orders, have been tried and shot by the Yugoslav partisans that are formed into units of the Yugoslav National Army of Liberation: Lieut-Col. Ezio Stuparelli, former Chief of Staff of the "Venezia" Division;

Major Antonio Monzani, formerly of the Command of the "Petrinense" Division;

Captain Ceroti, formerly of the Command of the "Venezia" Division.

The charges on which the abovenamed were tried and shot are, as far as it is known, absolutely irrelevant from the juridical standpoint and such as not to justify not only their sentence but not even legal proceedings against them. In fact, Lieut.Col. Stuparelli appears to have been charged with having at one time changed his surname from Stuparelli to Stuparelli and to having been a "squadrista"; Major Monzani was accused of having strongly reacted at the disrespectful behaviour of an Italian soldier towards himself; Captain Ceroti of having been a "squadrista".

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It further appears that the following 11 Italian officers have been placed under inquiry by the Command of the III Corps of the Yugoslav National Army of Liberation:

General of Brigade (of the Regular Army) Carlo Isasca, former Infantry Commander of the "Venezia" Division; ^{Beta Felice} ~~formerly~~ ¹⁹³⁷ Commander of the Artillery Colonel (of the Regular Army) Mario Sabini, formerly of the 3rd Battalion of the 83. Infantry Regiment "Venezia";

Alpine Major (of the Regular Army) Lionello Albertini, formerly on the General Staff of the Command of the "Venezia" Division.

Artillery Major (of the Regular Army) Eugenio De Santis, formerly in the Artillery Regiment of the "Ferrara" Infantry Division;

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Captain of the Royal Carabinieri, Sconosciuto, formerly Commander of the Carabinieri in the "Venezia" Division;

Captain Foppiano, formerly of the 83. Infantry Regiment, "Venezia" Division and formerly Civilian Delegate at Korasin;

Captain Paganoni, formerly of the 83. Infantry Regiment, "Venezia" Division and formerly Civilian Delegate at Berane;

Captain Panicucci, formerly of the 83. Infantry Regiment, "Venezia" Division.

It has not been possible to obtain as yet any information concerning the charges against these Officers.

The above information, confirmed also by another reliable source, is of an extremely serious nature and compels the Italian Government to enlist the interest of the Allied Authorities in the matter. The Italian Government formally protests against the unlawful trial of the abovenamed 14 Officers and against the barbarous sentence passed and executed on three of them. The Italian Government demands that any judicial action or any other action of whatsoever nature against the 11 Officers at present under inquiry be suspended and, further, that these last be forthwith repatriated.

A short aide-memoire is herewith enclosed wherein are set out certain considerations regarding the illegality of the lament-

Government to enlist the interest of the Allied Authorities in the matter. The Italian Government formally protests against the unlawful trial of the abovenamed 14 Officers and against the barbarous sentence passed and executed on three of them. The Italian Government demands that any judicial action or any other action of whatsoever nature against the 14 Officers at present under inquiry be suspended and, further, that these last be forthwith repatriated. A short aide-memoire is herewith enclosed wherein are set out certain considerations regarding the illegality of the lamented proceedings.

The various deplored incidents show - even apart from their merit - that the principle cannot be accepted that members of the "Italian Garibaldi Division" be subjected to a military jurisdiction other than that of the State to which they belong.

The re-affirmation and the respect of this principle is all the more necessary not only in order to safeguard the sovereign rights of the Italian State and the respect of International rules which must exist particularly between States united in a common struggle, but also because it would be inhuman to pretend that

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Italian soldiers should continue to fight, to suffer, and to die alongside the Yugoslav soldiers, when these co-belligerents do not recognize to the first those rights that the comity of civilized Nations and the particular obligations of the Allies have fixed and sanctioned.



ROMA, 12th November, 1944.

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AIDE MEMOIRE

1. - A universally accepted and practised rule of international law lays down that members of any Expeditionary Force stationed in a Foreign Country shall not be subject to the jurisdiction of local tribunals and shall be exclusively subject to the military jurisdiction of the national army to which the said forces belong.

Now, owing to the fact that the "Garibaldi" Division, of which the shot officers and those at present under inquiry are members, is formed by units of the Italian Divisions, "Venezia" and "Caurinense", and owing also to the fact that on its re-organisation, it was, by the very same Yugoslav Command, called the "Italian Partisans Garibaldi Division", it must be considered as a regular Expeditionary Force or Yugoslav battalion, operating as a co-belligerent alongside the Yugoslav Partisans Army. The men serving in this Expeditionary Force can not, therefore, be subjected to any jurisdiction other than the Italian military jurisdiction.

It is here opportune to point out that this principle would still maintain its full value even in the event that the above Division did not dispose of a pre-established Military Tribunal, formed by suitable organs of the Military Judiciary, as in such cases the Italian war emergency law contemplates the formation, with the available means and at any moment, of a War Emergency Military Tribunal for the purpose.

2. - Apart from this prejudicial exception to the incompetence of the Partisans Tribunals to try troops belonging to the "Garibaldi"

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to is left on, or time to point out that this principle would still maintain its full value even in the event that the above division did not dispose of a pre-established military tribunal, formed by suitable organs of the military judiciary, as in such cases the Italian war emergency law contemplated the formation, with the available means and at any moment, of a war emergency military tribunal for the purpose.

2. - Apart from this prejudicial exception to the incompetence of the emergency tribunals to try troops belonging to the "Carabinieri" division - which would in itself be sufficient to show the illegality of the procedure followed - it must be pointed out that the three tribunals, in respect of which the charges are known, show an absurd claim to consider as crimes -vis-à-vis Italian citizens - facts which must be considered utterly irrelevant to the Yugoslav juridical system. As a matter of fact one of them is considered by Italian legislation, the only one competent to judge in the matter, as perfectly lawful. Reference is here made to the officers who have been shot for having "squadristi", a fact absolutely outside the legal powers of the Yugoslav Court to judge, and to the case of Lieut. Col. Stuparac, sentenced to death for having, inter alia, modified his surname. In fact, this, that took place in conformity with the laws in force in the country of which the officer was a citizen.

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3. - The inadequacy of the charges brought against the above Officers to justify the capital punishment inflicted and the fact that, owing also perhaps to the scarce information available the reasons for which General Iersca and ten other Officers are placed under inquiry are unknown, give rise to fears that the Partisans authorities have proceeded and intend to proceed against them as war criminals.

However, in this instance also, according to the provisions embodied in the "Declaration on Italy", issued by the Ministers for Foreign Affairs of Great Britain, Russia and the United States on the conclusion of the Moscow Conference of October 1943 (and which must be considered to be binding also on Yugoslavia), the legality of the intervention of the Yugoslav Partisans Tribunals must be denied, and for the following two different reasons:

- a) The above Officers, both owing to the character of the charges and to their military rank, cannot be considered war criminals;
- b) These Officers, however, inasmuch as they are Italian citizens, even if charged with having acted as war criminals, must in any case be judged by the Italian jurisdictional authority.

As regards point a), in fact, the abovementioned "Declaration" in laying down, differently to the provisions applicable exclusively to Germany set out in the "Declaration of atrocities" issued at the same time, that legal proceedings are to be taken for war crimes only in respect of "Fascist chiefs and army generals", leaves in force the ordinary international rule, according to which only those who have given the orders to accomplish acts that constitute war crimes can be tried and eventually punished, excluding therefore that any action can be taken against those who materially carried out the orders, as, on the

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As regards the second point b), whilst in respect of Germany it is specified that the guilt of war crimes "shall be sent back to the countries where their abominable misdeeds were accomplished so as to be judged and punished according to the laws of the liberated countries and of those Governments that will therein be established", in respect of Italy it is instead generically contemplated that the guilty "shall be arrested and handed to justice". Lacking the specific provisions set out in respect of German war criminals, this justice must be intended to mean national justice and, in this case, Italian justice.

From these two considerations it is clear that, even if it were question of proceedings for war crimes, the Yugoslav partisans authorities would equally have acted unlawfully, inasmuch as they would have violated the above-mentioned "Declaration on Italy", both in sentencing officers who owing to their rank could not possibly have been considered guilty of war crimes, and in claiming the right of judging them. This right, in accordance with the well-established international rule which is not contradicted by the said "Declaration", is reserved to the tribunals of the Italian State.

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