

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

785017

ACC

10000/109/1578  
(VOL. II)



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

785017

10000/109/1578  
(VOL. II)

AMG COURTS, MILITARY GOV'T TERRITORY  
MAY-SEPT. 1944



122  
HEADQUARTERS  
ALLIED CONTROL COMMISSION  
R. C. & M. G. SECTION  
APO 394

26 September, 1944

Ref/232/122/CA

SUBJECT : Rules of Procedure.

TO : Regional Commissioners, Lazio, Abruzzi-Marche, Toscana, Emilia, Piemonte, Liguria, Lombardia and Venezia Regions.

1. The following amendment to Rules of Procedure for Allied Military Courts will be brought into operation forthwith.

Rule of Procedure 6 paragraph (a)

Add at the end of the present paragraph the words:

" provided that the Regional Legal Officer may delegate to such Provincial Legal Officers as he thinks fit the power to order that any particular case or class of cases be ~~brought~~ for trial directly before a Superior Court."

2. The above amendment will be brought to the notice of all persons affected.

3. The Italian translation of the above amendment is as follows :

" Assicurato che l'Ufficiale Legale Regionale può delegare a quegli Ufficiali Legali Provinciali che riterrà opportuno il potere di ordinare che qualsiasi causa o tipi di cause siano portate per il giudizio direttamente dinanzi ad una Corte Militare Superiore."



- Regions: Piemonte, Liguria, Lombardia and Venezia  
Emilia, Piemonte, Liguria, Lombardia and Venezia  
Regions.
1. The following amendment to Rules of Procedure for Allied Military Courts will be brought into operation forthwith.

Rule of Procedure 6 paragraph (a)

Add at the end of the present paragraph the words:

" provided that the Regional Legal Officer may delegate to such Provincial Legal Officers as he thinks fit the power to order that any particular case or class of cases be **brought** for trial directly before a Superior Court."

2. The above amendment will be brought to the notice of all persons affected.

3. The Italian translation of the above amendment is as follows :
- " Assicurato che l'Ufficiale Legale Regionale può delegare a quegli Ufficiali Legali Provinciali che riterrà opportuno il potere di ordinare che qualsiasi causa o tipi di cause siano portate per il giudizio direttamente davanti ad una Corte Militare Superiore."

*M. S. Lush*  
M. S. LUSH,  
Brigadier,  
Executive Commissioner.

Copy for information to RGS Sicilia, Sardegna and Southern Regions.

3725 PA



HEADQUARTERS  
ALLIED CONTROL COMMISSION  
LEGAL SUB-COMMISSION  
APO 394

*Legal Subcom*  
*122A*

ACC/4002/2/L.

WES/pa.  
21 Sept 44/

SUBJECT : Amendment of rules of Procedure.

TO : Executive Commissioner ( *Trans V.P. Admin Sect.* ); *7 SEP 1944*

1. At a meeting of Regional Legal Officers held at this HQ on 20 Sept 1944 it was proposed that Rule 6a of the Rules of Procedure for Allied Military Courts be amended.

2. The existing rule provides that all persons shall be brought to trial before a Summary Court unless the CLO or RIO makes an order that any case or class of case shall be brought directly before a Superior or General Court.

3. The amendment proposed was that the RIO be permitted to delegate this power to approved Provincial Legal Officers in the case of Superior Courts.

4. The reasons for this proposal are :

- (a) In most cases Provincial Legal Officers have now sufficient experience to warrant this delegation;
- (b) The delay in bringing cases to trial if authority has to be obtained from the RIO particularly in Regions where communications are slow;
- (c) The waste of time and personnel involved in Summary Court proceedings over cases which will obviously have to be remanded.

5. The proposal is therefore recommended for your approval. If you approve, a wax will be cut for your signature.

*To Ex Com*

*Richard H Wilmer*  
RICHARD H. WILMER,  
Colonel, GAC,  
Chief Legal Officer.

*I was present at this discussion & entirely agree; this will be essential in further work.*  
*23 Sep 44* *Y. J. H. 1* *I agree RR/23/5* *3124* *USA*



DRAFT

HEADQUARTERS  
ALLIED CONTROL COMMISSION  
R. C. & M. G. SECTION  
APO 394

Ref/

SUBJECT : Rules of Procedure.

TO : Regional Commissioners, Regions IV, V, VIII, IX, XI, XII,  
Piemonte, Liguria, Romagna.

1. The following amendment to Rules of Procedure for Allied Military Courts will be brought into operation forthwith.

Rule of Procedure 6 paragraph (a)

Add at the end of the present paragraph the words :

" provided that the Regional Legal Officer may delegate to such Provincial Legal Officers as he think fit the power to order that any particular case or class of cases be brought for trial directly before a Superior Court ".

2. The above amendment will be brought to the notice of all persons affected.

3. The Italian translation of the above amendment is as follows :

" Assicurato che l'Ufficiale Legale Regionale puo' delegare a quegli Ufficiali Legali Provinciali che riterra' opportuno il potere di ordinare che qualsiasi causa o tipi di cause siano portate per il giudizio direttamente dinanzi ad una Corte Militare Superiore ".

*M. S. LUSH*  
M. S. LUSH,  
Brigadier,  
Executive Commissioner.

Copy for information to RCs I, VI and Southern Regions.

3123 (154)



HEADQUARTERS  
ALLIANCE GENERAL COMMISSION  
R. & M. G. SECTION  
APO 394

121

Ref: 317/207/GA

2 September 1944.

SUBJECT: Prisons in Sicily.

TO : Admin. Section (for Legal Sub-Commission and Public  
Safety Sub-Commission). *file 317/206*

1. Attached is a copy of a letter dated 30 August 1944 Ref:  
RPS. 014.I. from the R.P.S.O. Sicily Region Headquarters. *317/199*

2. This letter is an answer to our enquiry of 8 August 1944  
on the possibility of establishing civil prisons on the Lipari  
Islands. *112*

3. After having received an enquiry from the Regional Com-  
missioner, Region 2 about the possibility of sending offenders to  
North Africa for prison for various reasons the Executive Commis-  
sioner wrote to Chief Legal Officer on 26 August 1944 a letter Ref:  
203/113/GA suggesting Lipari instead of North Africa.

*113* 4. It was believed that the Chief Legal Officer would wish to  
consider a copy of the attached letter in connection with the  
Executive Commissioner's letter of 26 August 1944. *113*

*WAS Dotted*  
*Maje*  
for NORMAN S. FISKE.  
Colonel  
Deputy Executive Commission.

ENCL: 1.

*see file 317*

*1122*



2534  
RC & MG 5  
170

AND REGION FIVE FOR HQ AND HQO

HQ ACC PUBLIC SAFETY 3-3

2552

31/8/44

W.D.

2552

RESTRICTED

ROUTINE

PUBLIC SAFETY 3-3

115 Recd

6/11/44 + 27 aug

REFERENCE YOUR SIX ONE ONE ONE ONE FOUR DATED TWO SEVEN AUGUST  
FOUR FOUR REQUESTING ATTENDANCE AT ACQUILA OF FRANCESCO FUGARDI  
PD PAREN TO AND REGION FIVE FOR HQ AND HQO FROM HQ ACC PAREN  
FUGARDI WILL ARRIVE UNDER HONORARY ACQUILA WEDNESDAY FIFTH ONE  
SEPTEMBER PD PLEASE ARRANGE PRISON ACCOMMODATION

RC & MG Sec



HEADQUARTERS  
ALLIED CONTROL COMMISSION  
Public Safety Sub-Commission

ACC/A4230/PG

31 August 1944

SUBJECT : FUGARDI Francesco

1 SEP Recd

TO : HPSO, Regina V

1. Reference your Message No. 611/4 dated 27 Aug 44.  
2. FUGARDI Francesco will leave Regina Ceeli, Rome, at 0900 hours Friday 1 Sep 44 and arrive at AQUILA at about midday. He will be accompanied by two Military Police and two OTHER.

3. Transport and escort will return to this HQ.  
4. If information is passed to this office when the trial of NEHRANDIS is completed, arrangements will be made by this Sub-Commission to transfer FUGARDI to Regina Ceeli jail.

*Franklin N.A.T.*  
PAUL G. KIRK,  
Colonel, Infantry,  
Director, Public Safety  
Sub-Commission.



1. Reference your Message No. 611/4 dated 27 Aug 44.
2. FUGARDI Francesco will leave Regina Coeli, Rome, at 0600 hours Friday 1 Sep 44 and arrive at AQUILA at about midday. He will be accompanied by two Military Police and two CORR.
3. Transport and escort will return to this HQ.
4. If information is passed to this office when the trial of BERLARIO is completed, arrangements will be made by this Sub-Commission to transfer FUGARDI to Regina Coeli Jail.

*Paul G. Kirk*

PAUL G. KIRK,  
Colonel, Infantry,  
Director, Public Safety  
Sub-Commission.

Copy to: Legal-Sub-Commission,  
RC & MI Section  
Security Branch

31211



283  
**SECRET**  
118

HEADQUARTERS  
ALLIED CONTROL COMMISSION  
SECURITY BRANCH  
A.C.C. 394

Ref : CM/143

30 August 1944

Subject : Espionage Trial - RICHMOND Riccardo

To : Colonel A.E. YOUNG + Director, Security Branch

1. With reference to Message No. 644/4 (HQ. ACC Message Centre No. 6658/27) received from ASI Region 5, dated 27th August, 1944, requesting the attendance as soon as possible of Francesco PUGARELLI, Riccardo RAPINO and Lorenzo LANZONI, who will be required as witnesses at the trial of Riccardo RICHMOND, due to commence at 0900 hours, 4th September, 1944, at Aquila. Arrangements for the attendance of the accused person were also requested.

2. RAPINO and LANZONI are located in 374 POW Camp - Padula and their attendance is being arranged through HQ. IAI, OSI (b), who will also arrange attendance of accused person.

3. PUGARELLI, recently sentenced to 15 years imprisonment for espionage, is at present in Regina Coeli Gaol.

4. As instructed I have discussed with Public Safety Sub-Commission (Major Wilson) arrangements for the attendance of PUGARELLI at Aquila for the trial. Major Wilson stated that he could make the necessary arrangements for PUGARELLI to be taken under escort, by HQ. ACC transport from Regina Coeli Gaol to AMG Aquila.

5. It is suggested that a copy of this report be forwarded to Major Wilson, Public Safety Sub-Commission, HQ. ACC for action as at para. 4.

Approved as at para. 5  
Copy to Lt. Col. R.C.I. Shipp, C.A. Branch

Louis V. GALE,  
Captain,  
Security Branch

A.E. YOUNG,  
Colonel,  
Director,  
Security Branch

3719



HEADQUARTERS  
ALLIED CONTROL COMMISSION  
LEGAL SUB-COMMISSION  
APO 394

AGC/4002/L.

/rlp.  
28 August 1944.

30 AUG Recd

SUBJECT : AMC Courts - long term sentences.

TO : Regional Legal Officers (THRU Regional Commissioners),  
Regions I, Southern, IV, V, VI, VIII, IX and \*Z\*.

1. a. In all General Military Court cases and in all Superior Court cases in which a total sentence in excess of 5 years is imposed, the Court will include as part of its record a statement of its findings on any material question of fact particularly as to one which may be in dispute. It is not necessary that this statement be made to the public.

b. The object of this statement is to supply information to the reviewing authority. Frequently there is a serious conflict of evidence on some vital element in the case; e.g., in a case in which an Allied soldier is killed in a fight, the conduct of the soldier prior to the fight is most material; had he been behaving quietly or in a noisy or drunken way? had his manner been hostile or offensive? or had he actually threatened or used force against the accused or members of the accused's family? It is the duty of the Court, having heard the evidence and seen the witnesses, to decide such questions of fact. The statement is required to inform the reviewing authority of such decisions; it should be as short as possible provided that it fulfills the above requirements.

2. In any case in which a court, for some special reason or on account of some special circumstances in that case, imposes a sentence either heavier or lighter than it would normally do in such a case, the Court will make a note on the record to that effect and will state the nature of such reason or circumstances.

3. The above instructions will be brought to the attention of all legal officers and copies for distribution are enclosed herewith.

*Richard H. Wimer*  
RICHARD H. WIMER,  
Colonel, CAC,  
Acting Chief Legal Officer.

Copy to: SCAOs, 5 & 8 Armies.  
RC & ME Sec (8).



SECRET

HEADQUARTERS  
ALLIED CONTROL COMMISSION  
SECURITY BRANCH  
A.P.O. 394

Ref : SB/149

29 August 1944

Subject : Espionage Trial  
- BERLENDIS Riccardo -

To : Colonel A.E. YOUNG  
- Director - Security Branch -

1. On 28th August, 1944, through R.C. & M.G. Section (Major Holland), Message No. 611/4 (H.Q. A.C.C. Message Centre No. 6656/27) dated 27th August, 1944 was received from A.M.G. Region 5.

2. The message requested that arrangements be made for the attendance as soon as possible of FUGARDI Francesco, RAPINO Renato and SANSONE Lorenzo, as witnesses at the trial of BERLENDIS Riccardo, which is to commence at 0900 hours on 4th September, 1944 at AQUILA. Arrangements for the attendance of the accused were also requested.

3. It has been ascertained that FUGARDI Francesco was recently sentenced to 15 years for espionage and is at present lodged in Regina Coeli Goal, Rome.

4. RAPINO Renato and SANSONE Lorenzo, having passed through the hands of C.S.D.I.C., are now detained at 371 F.C.M. Camp, Padula.

5. Major Thill, G.S.I. (b) - HQ. A.A.I., was acquainted with the facts as above, by telephone, on 28th August 1944 and will make the necessary arrangements for the early attendance of the three witnesses and accused, as requested.

*Louis V. Gal*

Louis V. Gal



1. On 28th August, 1944, through R.C. & M.G. Section (Major Bollard), Message No. 611/4 (M.G. A.C.C. Message Centre No. 6656/27) dated 27th August, 1944 was received from A.M.G. Region 5.

2. The message requested that arrangements be made for the attendance as soon as possible of FUGARDI Francesco, RAPINO Renato and SANSONE Lorenzo, as witnesses at the trial of MERIZIO Riccardo, which is to commence at 0900 hours on 4th September, 1944 at AQUILA. Arrangements for the attendance of the accused were also requested.

3. It has been ascertained that FUGARDI Francesco was recently sentenced to 15 years for espionage and is at present lodged in Regina Coeli Goal, Rome.

4. RAPINO Renato and SANSONE Lorenzo, having passed through the hands of C.S.D.I.C., are now detained at 371 P.O.W. Camp, Padula.

5. Major Thill, G.S.I. (b) - HQ. A.A.I., was acquainted with the facts as above, by telephone, on 28th August 1944 and will make the necessary arrangements for the early attendance of the three witnesses and accused, as requested.

*Louis V. GALE*

Louis V. GALE,  
Captain,  
Security Branch

Copy to:-

Major Thill, G.S.I. (b) - HQ. A.A.I.  
Lt. Col. B.A.D. Young, 3-2 Branch, RAMC  
Major Bollard - RC and MG. HQ AGC  
Chief Legal Officer - HQ. AGC  
Regional Legal Officer, Region 5

*Allyn*  
A.B. YOUNG,  
Colonel,  
Director,  
Security Branch

*pc*

3117

SECRET



785017

ALLIED CONTROL COMMISSION  
INCOMING MESSAGE

TO: CLO HQ. ACC ROME

SIGNAL MESSAGE CENTER No 6658/27

FROM : AMO REGION 5

CLASSIFICATION NONE

REFERENCE No: 641/4

PRECEDENCE NONE

DATE AND TIME OF ORIGIN: AUG 27 0950Z OFFICE OF ORIGIN

YOUR REF 283/107/CA DATE 12 AUG 44 ESPIONAGE TRIAL OF  
3 D BERLENDIE RICCARDO SET FOR HEARING 4 SEP 0900 HRS AT  
AQUILA. ATTENDANCE OF EDUARDO FRANCESCO ALREADY CONVICTED  
OF ESPIONAGE AND BELIEVED TO BE IN BARI JAIL REQUIRED.  
PLEASE ARRANGE HIS ARRIVAL AS SOON AS POSSIBLE WITH ACCUSED  
AND RENATO AND SANSONI PREVIOUSLY REQUESTED. ATTENDANCE OF  
OTHER WITNESS BEING ARRANGED THROUGH 3 DISTRICT.

ACC DTST

ACTION: CA BR

INFO: A/CC

LEGAL SC

FILE

FLAT

see 118

3714



12832  
ALLIED CONTROL COMMISSION  
INCOMING MESSAGE

3915

TO: CLO HQ ACC HOME

SIGNAL MESSAGE CENTER No: 56/27  
FROM: ASD REGION 5  
CLASSIFICATION: NONE  
REFERENCE No: 611/4  
PRECEDENCE: NONE  
DATE AND TIME OF ORIGIN: AUG 27 0950Z OFFICE OF ORIGIN: 27 AUG Recd

107  
YOUR REF 283/107/CA DATE 12 AUG 44 ESPIONAGE TRIAL OF D D BENLINDIS RICCARDO  
SET FOR HEARING 4 SEP 0900 HRS AT AQUILA. ATTENDANCE OF FUGARDI FRANCESCO ALREADY  
CONVICTED OF ESPIONAGE AND BELIEVED TO BE IN BARI JAIL REQUIRED. PLEASE ARRANGE  
HIS ARRIVAL AS SOON AS POSSIBLE WITH ACCUSED AND RENATO AND SANSONI PREVIOUSLY  
REQUESTED. ATTENDANCE OF OTHER WITNESS BEING ARRANGED THROUGH 2 DISTRICT.



ACC DIST

ACTION: CA BR  
INFO: A/CC  
LEGAL SC  
FILE 2  
FLOAT

116  
22



REFERENCE NO: 611/4 PRECEDENCE: NONE

DATE AND TIME OF ORIGIN: AUG 27 0950B OFFICE OF ORIGIN:

YOUR REF 283/107/CA DATE 12 AUG 44 ESPIONAGE TRIAL OF D D BELENDIS RICCARDO  
 SET FOR HEARING 4 SEP 0900 HRS AT AQUILA. ATTENDANCE OF FUCARDI FRANCESCO ALREADY  
 CONVICTED OF ESPIONAGE AND BELIEVED TO BE IN EARI JAIL REQUIRED. PLEASE ARRANGE  
 HIS ARRIVAL AS SOON AS POSSIBLE WITH ACCUSED AND RENATO AND SANSONI PREVIOUSLY  
 REQUESTED. ATTENDANCE OF OTHER WITNESS BEING ARRANGED THROUGH 2 DISTRICT.

ACC DIST

ACTION: CA BR

INFO:

A/CC

LEGAL SC

FILE

FLOAT

2

DATE and Time of RECEIPT AUG 27 1455B

Distribution:

116  
 3415



113

HEADQUARTERS  
ALLIED CONTROL COMMISSION  
R.O. & M.A. SECTION  
APO 324

Ref 283/113/CA

26th August 1944

SUBJECT: Serving of Sentences Outside Italy

TO : Chief Legal Officer

1. With reference to your letter No. ACC/4429/11/1 of the 19th August, it is not possible to send offenders to North Africa for imprisonment for various reasons. It is however considered that the point raised by Col. Sallars in his letter regarding the inadequacy of certain sentences might be covered by sending such offenders to islands which are a part of Italy proper such as for example, Lipari.

2. Lipari Island is, I know, being considered for use for grain offenders in Sicily, but there may be other islands like it which could be used for the purpose you suggest.

3. Would you please consider this matter and if you think it worth while taking up, I would be glad if you would prepare a draft as you suggest.

L. S. JENK  
Brigadier  
Executive Commissioner  
For A/ Chief Commissioner

*Handwritten signature and date:*  
H. G. B. / 30/8



785017

HEADQUARTERS  
ALLIED COMMISSION  
LEGAL SUB-COMMISSION  
APO 394

ACC/1129/11/1.

/rlp.  
19 August 1944.

SUBJECT : Sentences in cases of Sabotage of Ammunition.

21 AUG Recd

TO : HQ A MG Section.

1. Reference your 283/109/OA of 15 AUG 44.

2. On previous occasions it has been suggested that persons convicted of certain offences might be sent to North Africa for imprisonment, but that was not permitted for practical or political reasons. Probably there is no legal reason against it, as the Italians themselves prior to the present war did send prisoners to Africa to serve sentences.

3. If you wish to carry this matter <sup>out</sup> further I will be glad to prepare a draft of letter setting forth the foregoing.

2/2/44  
to Chapp advised that  
we have no up at the  
R.C. meeting. with R.C. 1  
W.D.

*Richard H. Wilmer*  
RICHARD H. WILMER,  
Colonel, G.S.C.,  
Acting Chief Legal Officer.

113

3113



111  
19 August 1944.

Memorandum to Lt. Colonel Shipp.

I saw Colonel Wilmer to-day about my letter Ref/  
283/109/CA.

Colonel Wilmer promised to send an answer to our request.

He said that he had discussed the case at Bari and  
that his previous attempts to introduce this kind of pro-  
cedure for other situations had been unsuccessful. To es-  
tablish this practice it will be necessary to secure permis-  
sion from AFHQ.

W.G.S.D.  
WILLIAM A.S. DOLLARD.  
Major.  
Civil Affairs Branch.

3712



16 August 1944. 110

Col. B. Jones of Legal Section telephoned in answer to Major Dollard's letter of 15 Aug. Ref/283/109 asking for a draft letter for Regional Commissioner Region 2.

Col. Wilber is in Bari and has the letter with him. He is to discuss the matter with the Army and Regional Commissioner.

An answer can be given by Friday if it is desired by Maj. Dollard. Col. Bernes thinks that Col. Wilber will attend to the matter.

109

HEADQUARTERS  
ALLIED CONTROL COMMISSION  
R.C. AND M.C. SECTION  
APO 394

Phone:  
487459

Ref/263/109/GA

15 August 1944

SUBJECT: Sentences in cases of Sabotage of Ammunition.

TO : Legal Sub-Commission.

108

1. We refer to a letter dated 10 August 1944 Ref/2201/74/D from the Regional Commissioner, Region 2 of which a copy was sent to you by the Regional Commissioner.

2. May we have a draft reply to be sent as an answer to this letter of the Regional Commissioner, Region 2.

W.G.S.D. J. J. J.  
Major

fu HERMAN E. FISKE,  
Colonel.  
Deputy Executive  
Commissioner.

19/8/44

HEADQUARTERS

ALLIED CONTROL COMMISSION

REGION II

Ref. 2201/74/D

10 Aug 44

Subject:- Sentences in cases of Sabotage of Ammunition

To :- RC &amp; MG Section AOC ROME -

Copy to:- CLO Legal Subcommittee Rome  
No 2 District

6 Base Subarea

14th RAD.

13 AUG Recd

1. An ANG Court has sentenced Birudi Michele to 20 years imprisonment for theft and sabotage of ammunition.

While under Anglo Saxon Law he would certainly have been convicted of intentional Sabotage and received the Death penalty, interpretation of intention as defined by Article 43 of the CP, divided opinion among the Court.

By a majority vote, he was therefore convicted of unintentional sabotage only.

2. The evidence given by the OC 14th RAD as to the magnitude of depredations on ammunition was startling indeed as will be seen from the records of the case. Moreover he states it as a fact that lives of Allied soldiers at the front can hardly fail to have been lost through them - particularly from short firing.

3. The opinion is quite generally held, and even by the Court, that a sentence of 20 years penal servitude will not have the deterrent effect so essentially desired since these thefts are on the increase. The reason for it is that it is widely and doubtless correctly believed that as soon as the Allies leave, in all but a few political cases, persons condemned for offences against them will be liberated. The fact that no check is made on which such persons are even now serving sentence, enhances this belief.

4. It was therefore requested by 6 Base Subarea and agreed by the Court, that a recommendation would be forwarded to you for an exception to be made in convictions for Sabotage, and that sentences imposed for the same should be served overseas.

Short of the Death penalty it is felt that no other



1. An AMG Court has sentenced Birardi Michele to 20 years imprisonment for theft and sabotage of ammunition.

While under Anglo Saxon Law he would certainly have been convicted of intentional Sabotage and received the Death penalty, interpretation of intention as defined by Article 43 of the CP, divided opinion among the Court.

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4. It was therefore requested by 6 Base Subarea and agreed by the Court, that a recommendation would be forwarded to you for an exception to be made in convictions for Sabotage, and that sentences imposed for the same should be served overseas.

Short of the Death penalty it is felt that no other measure will provide sufficient deterrent effect.

  
John T. BELLARS

Colonel Inf.,  
Regional Commissioner.

Dec 109 3711



785017

SECRET 107

HEADQUARTERS  
ALLIED CONTROL COMMISSION  
N.O. AND M.O. DIVISION  
APO 304

REF/205/407/24

12 August 1944.

SUBJECT: Case of Berlandis Riccardo.

TO: Regional Commissioner, Region II.

104

1. Your application 2201/74/2 dated 5 August 44 for authority to hold in Region II an Allied Military Court for the trial of RICCARDO Berlandis on charge of espionage has been considered.

2. It is agreed that the offense is one which should be investigated by an Allied tribunal and that the evidence justifies a charge of espionage.

3. The offense, however, was not committed in Region II. Berlandis' mission was to obtain information in the front line zone, in Chiati Province. Any offense he committed was in fact committed in Chiati Province and his presence in Region II has been at all times involuntary.

4. The right to hold Allied courts in Italian Government territory is reserved for cases where it is not only necessary that such trial should be held but also that they should be held in that territory. This cannot be so, if, in fact the crime was committed elsewhere. It is therefore doubtful whether jurisdiction exists to authorize the holding of this trial in Region II.

5. However, it is considered that any trial in Region II would have to be held under Italian law. Berlandis may have committed a breach of the AMI Proclamations in Chiati Province, but those proclamations were never posted in the front area so that it would not be proper to hold a trial there under a law which has never been effective in that territory.

6. If the trial were held under Italian law, it would be necessary to show not only that Berlandis acted as a spy but that he succeeded in obtaining information. Otherwise he could only be convicted of an attempted crime, which would only carry a reduced penalty.

7. Berlandis can properly be taken to Chiati Province and tried there by General Court for an offense against Art 2, Art 1, Para 1. In fact, it is desirable that, if possible, evidence be given at the trial by the persons who saw and interrogated him at Casoli, Caglianese, Lanciano and Paglieta, in addition to the officers who saw him at Bari. These witnesses will be more easily available in Chiati than in Bari.

8. Berlandis will therefore be brought to trial before a General Court in Region V. Arrangements for the trial will be made by Region V.

Case file returned herewith.

William A. S. Dollard  
May 4

HUGHES, S. FINEB.  
Colonel.  
Deputy Executive  
Commissioner.

8100

Copied to: HQ, Region V.  
Legal Advisor.

HEADQUARTERS  
ALLIED CONTROL COMMISSION  
LEGAL SUB-COMMISSION  
APO 394

ACC/4129/16/L.

SUBJECT : Case of BERLENDIS Riccardo.

TO : RC & MG Section.

/rlp.  
10 August 1944.

11 AUG Recd

1. Herewith are returned the papers in the case of BERLENDIS Riccardo.
2. It is recommended that authority be refused for the trial of the case in Region II, but that the accused be transferred to the Chieti area for trial in Region V.
3. It is recommended that a letter be written to Region II, copy to Region V, in the terms of the attached draft which sets out the reasons for this course.

4 Incls.

- Incl #1 - Statement by Berlendis (in Eng & Ital)  
#2 - Interrogation Report of Berlendis  
#3 - Interrogation Report by Officer CSBIC (Sub-Center East)

105 for *W. H. Wilmer* Col 3100  
RICHARD H. WILMER,  
Colonel, CAC,  
Acting Chief Legal Officer.

#4 - Letter from Hq 2 Dist to  
Legal Branch, Reg 2, 2168/  
2 GSI dated 28 July 44.

HEADQUARTERS  
ALLIED CONTROL COMMISSION  
RC & MC SECTION  
APO 394

SUBJECT : Case of BERLENDIS Riccardo.

TO : Regional Commissioner, Region II.

1. Your application 2201/74/D dated 5 Aug 44 for authority to hold in Region II an Allied Military Court for the trial of BERLENDIS Riccardo on charges of espionage has been considered.

2. It is agreed that the offence is one which should be investigated by an Allied tribunal and that the evidence justifies a charge of espionage.

3. The offence, however, was not committed in Region II. Berlendis' mission was to obtain information in the front line zone, in Chieti Province. Any offence he committed was in fact committed in Chieti Province and his presence in Region II has been at all times involuntary.

4. The right to hold Allied courts in Italian Government territory is reserved for cases where it is not only necessary that such trials should be held but also that they should be held in that territory. This cannot be so, if, in fact the crime was committed elsewhere. It is therefore doubtful whether jurisdiction exists to authorize the holding of this trial in Region II.

5. Moreover, it is considered that any trial in Region II would have to be held under Italian law. Berlendis may have committed a breach of the AMI Proclamations in Chieti Province, but these Proclamations were never posted in the Bari area so that it would not be proper to hold a trial there under a law which has never been effective in that territory.

6. If the trial were held under Italian law, it would be necessary to show not only that Berlendis acted as a spy but that he succeeded in obtaining information. Otherwise he could only be convicted of an attempted crime, which would only carry a reduced penalty.

7. Berlendis can properly be taken to Chieti Province and tried there by General Court for an offence against Proc 2, Art I, Para 1. In fact, it is desirable that, if possible, evidence be given at the trial by the persons who saw and interrogated him at Casoli, Guglionesi, Lanciano and Paglieta, in addition to the officers who saw him at Bari. These witnesses will be <sup>more</sup> easily available in Chieti ~~than~~ than in Bari.

8. Berlendis will therefore be brought to trial before a General Court in Region V. Arrangements for the trial will be made by Region V.

Copy to: RC, Region V.



HEADQUARTERS  
ALLIED CONTROL COMMISSION  
REGION II

5 Aug. 44

Ref. : 2201/EM/ D

Subject: In Re Berlandis Riccardo

To : Executive Commissioner RC & MG Section AGO Rome.

1. Application is hereby made for the above individual to be tried by and AMG Court as requested by No. 2 District

Police depositions are attached, and it will be seen that the charges will be for espionage.

2. Capt. A.C. GETHMAN would prosecute, and would be ready to do so ten days after receipt of charges.

3. The Court would be composed from the panel of officers authorized by you.

4. The interpreter would be J. Newman, and if necessary a defending officer would be selected from the approved panel. The case would probably last one day.

It is felt that any such case of espionage should be tried by AMG Court, more especially since the Italian Courts are apt to show great leniency in cases where the objective is not attained.

JOHN T. ZELLARS  
Col. Inf.  
Regional Commissioner



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JOHN T. ZELLARS  
Col. Inf.  
Regional Commissioner

3.00

MEMORANDUM

To : Legal Sub-Commission.

In accordance with an agreement with the Executive Commissioner, all Orders appointing General Courts and Panels for such courts will in future be signed by Vice President Admin Sec or Acting Vice President in his absence.

ADMIN SEC  
6 AUG 44

G.R. UPJOHN Col,  
A/Ad. Admin Sec.

Copy to RHE Section. ✓

WASD

RGD/gal

3701A

Ref 3/5A/AS.

7 AUG Recd

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HEAD HEADQUARTERS  
ALLIED CONTROL COMMISSION  
LEGAL SUB-COMMISSION  
APO 394.

2 June 1944.

REFERENCE : AOC/4002/12/L.

SUBJECT : Approval of Officers as Superior Courts.

TO : S.L.O., A.M.C., 8th Army.

1. Reference your OA/13 dated 30 May 1944.
2. This Sub-Commission in the light of past experience still believes it best to give individually the authority to officers to sit alone as superior courts.
3. Authority to sit as a sole member of a Superior Military Court is granted in respect of Major G. M. Welford.



*Richard H. Wilmer*  
RICHARD H. WILMER,  
Colonel, C.A.C.  
Deputy Chief Legal Officer.

*PH*

REH/vcm.

Copy to : Executive Commissioner. —

HEADQUARTERS  
ALLIED CONTROL COMMISSION  
H.Q. & H.Q. SECTION

Ref/263/101/QA

1 June 1944

TO: Legal Sub-Commission.

1. The attached copy letter from ANZ Eighth Army (Ref 0A/13 dated 30 May 44) is forwarded. The letter giving qualifications of Major Walsford, P.L.O., Chieti, has not been received at this H.Q.

2. Please let this HQ have a copy of your reply to ANZ Eighth Army.



NORMAN H. FISHER  
Colonel  
Deputy Executive Commissioner.



SUBJECT:- Superior Courts.

283 *8* *CHB* *102*  
1 JUN Recd

AMG Rear Eighth Army

CM/13

30 May 46

EXECUTIVE COMMISSIONER'S BRANCH,  
ALLIED CONTROL COMMISSION.

Copy to : ADMINISTRATIVE SECTION, ACC.

*Presumably for legal.*

1. It is suggested that all PLOs, RLOs and SLOs be authorized to sit alone as Superior Courts.

2. Letter of even date describes qualifications of Major Welsford, PLO, Chieti, and it is requested that such authorization be extended to him.

RECEIVED  
31 MAY 1946  
A. C. C.

*Edwin J. Mercer*

EDWIN J. MERCER, Lt.-Col. Ord.,  
Senior Legal Officer,  
for Group Captain,  
Officer Commanding,  
AMG EIGHTH ARMY.

*see 102*

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