

Declassified E.O. 12356 Section 3.3/NND No. 785015

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10000/110/318 107/2

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

785015

10000/110/318 107/XOA - WAR CRIME COMMITTEE
AUG. 45

1104

Declassified E.O. 12356 Section 3.3/NND No. 785015

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

Col. Patrick

*File
CP*

Ref 1/29 A/CA

24 August 45

SUBJECT : War Crimes

TO : Polad (2)
DP & R S/C
Legal S/C
PS S/C
Finance S/C
Establishment Sec. ✓

- 1 Will you please detail an officer to attend a conference upon the arrangements for a Yugoslav Mission to investigate "War Crimes committed in Italy" which will be held in the room of the VP Civil Affairs Section at 1100 hrs on Monday 27 Aug.
- 2 The papers relating to the Meeting will be circulated shortly.

[Signature]
S.H. WHITE
Lt. Colonel,
for VP CA Section

Copy to : VP CA Section

5070

3704

107/X0A

Jugoslav Mission to Investigate War Crimes

Summary of position

2 Oct 44

In Sep 44 the Yugoslav Mission approached Poland, with a view to obtaining leave to investigate War Crimes; this was forwarded to AFHQ on 2 Oct with the comment that it was considered that the matter was one for AFHQ to staff and organize and further that AG had not the requisite staff. The application in question made no reference to any particular allegation but sought permission in the broadest terms "to obtain evidence which may later be useful" and for that purpose to be granted facilities to interrogate displaced Yugoslavs and to inspect camps and prisons and to "investigate" the Italian authorities concerned, i.e. ministries, prefects, chiefs of police, questuri, etc.

This wide request was amplified by an 8 foolscap page memorandum specifying by name 102 camps it desired to visit and reserving the right to visit others. Mentioning by name 94 prisons it desired to visit and reserving the right to add others. Stating that Yugoslavs were ordered to reside in confine in certain remote villages. The number of such villages is estimated at from 500-700, that so far it has only been possible to identify the 146 villages there specified. The document then referred to forced labour battalions (into which it is stated 60,000 Yugoslavs had been impressed) and to Prisoner of War camps all of which it was desired to investigate. The scope of the enquiry is frankly stated to be to ascertain the names of politically persecuted persons, the damage suffered by them and to ascertain the names of those responsible for "intentionally causing the death of so many thousands". This letter was forwarded to AFHQ on 4 Oct with the comment "you will observe that the investigation proposed is extremely detailed and broad in its scope".

17 Dec 44

On 17 Dec AGWAR cabled AFHQ that "the request of Yugoslav Government to investigate suspected War crimes".... "should be approved". This telegram refers specifically to the request but does not appear to approve that the request was not to investigate any particular facts which could properly be described as "suspected war crimes"; the request was for a general investigation to see if facts could be found from which war crimes might be deduced.

On 3 Mar (TAM 415) OCS cabled to the same effect (the cable of 17 Dec was strictly speaking US view only) namely that the request to investigate suspected War crimes should be granted. The cable said that the investigation should be under the aegis of the Allied Military Authority or, if for military reasons an investigation by the Yugoslav Mission was undesirable, it should be undertaken by AFHQ.

It also stated that a directive on the general question was in preparation.

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It also stated that a directive on the general question was in preparation.

30 Mar 45

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On 30 Mar 45 AFHQ wrote AG that the Yugoslav Government was to be permitted to investigate War Crimes" (the word "suspected" has been dropped, but the phrase still implies an investigation into definite allegations and not an investigation to see if any War Crimes have been committed). The letter went on to say that the investigation would be supervised by the AG and that before any further steps were taken, the Yugoslav Government would submit detailed proposals with regard to their mission and its tasks.

AG was informed that it would be asked to send a representative to the next meeting to determine procedure.

25 Jul 45

On 25 Jul the Yugoslav Government submitted its detailed proposals as to its mission and its tasks. The proposals are in the widest possible terms. They were forwarded without any essential adverse comment to AFHQ on 28 Jul and there was therefore an implication that this HQ had no objection thereto.

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HEADQUARTERS ALLIED COMMISSION

ESTABLISHMENT SECTION

File

Date

FROM

File
CP
TO

Col. Partin
Deputy Ex. Commissioner

> Staff Officer

Executive Officer (A)

Executive Officer (B)

G-1 (A)

G-1 (B)

G-4 (A)

G-4 (B)

Headquarters Commandant

Adjutant

FOR:

Comment

Draft of reply

Investigation and report

Answer

Signature

Approval/Disapproval

Your Information

Your File

Return, please

Lowe (Hodgson)

Please contact CIA
Conference time
Sec de (to) rep. ILU
place

107/XOA

5069

20 Aug 45

On 20 Aug an AFHQ Staff Study with drafts of the proposed action was sent to this HQ for approval.

The study accepts the Yugoslav proposals and attached are drafts of letters proposed to be sent out to enable the proposals to be carried out.

Among the draft letters for approval is one to AC stating
 a) that the Yugoslav proposals are approved;
 b) that the consent to them of the Italian Govt shall be obtained;
 c) that AC will supervise and accommodate the Mission - and impliedly provide staff and cars.

The following comment is made on the above:

The protest of AC that AFHQ should be responsible and that AC has no staff available has not been specifically dealt with.

TAM 413 definitely says that supervision should be by the Allied Military Authority (or AFHQ).

That no general directive has been received.

That there is no evidence on the file that the meeting to consider procedure was ever called.

AGENDA

To consider:

1 The procedure to be followed (an outline of a possible procedure is attached).

2 Whether any objection shall be made to the Yugoslav proposals (the proposals and the possible objections are attached).

3 Whether AC shall object to being made responsible for supervising the mission.

Until 30 Mar it was consistently recognized that the subject of War Crimes was primarily an Army matter. It is submitted that the responsibility should be AFHQ's. AC is the vehicle for governing Italy. The enquiry is not concerned with the government of Italy but is concerned with the collection of evidence on the subject of War Crimes, a matter which AFHQ has consistently kept under its own hands. AC is merely being used as a convenience to avoid a little donkey work. The practical arguments against AC being responsible are not new, nor that hostile

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4 If AC is to be responsible, what arrangements should be made as to staff, accommodation, transport, etc.

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CA 5,
23 MAR 1945

Suggested Procedure

The enquiry should be divided into two stages.

- 1 In the first stage members of the Mission should be permitted to interview freely their own nationals. There should be no necessity to visit at this stage the many camps and villages mentioned by name the presumption is that all Yugoslavs will have left or will shortly be leaving. DRR will arrange for these interviews to take place at convenient camps. No Allied officer need be present unless thought desirable in which case arrangements could probably be made that such interviews shall take place only in presence of a DRR officer. This may be desirable to protect the Yugoslavs from having evidence suggested to them and from threats.
- 2 The Italian Government should be given the opportunity of being present at all interviews, they should be satisfied that the persons have not been previously prompted and their evidence suggested to them. This right of the Italian Government to be present should apply to all interviews not merely of displaced persons they should also have the right to question in order to lead out explanations or to lead to rebutting evidence.
- 3 DRR should be prepared to satisfy the Mission that substantially all displaced persons have been cleared or made available for interview. It may be assumed that Yugoslavs who desire to continue to reside where they are and avoid being treated as displaced persons have no desire to claim to be victims of a war crime.
- 4 With regard to Prisons Public Safety should arrange to obtain lists of Yugoslavs imprisoned and make arrangements for simple interview as above. It should be prepared to satisfy the Mission that the list is complete and that no person is deliberately being concealed alternatively the Mission should have facilities to satisfy itself.
- 5 At this stage the examination should be confined to the prisoner and the Italian Government should be represented.
- 6 At the end of this stage the Mission should formulate allegations defining the principal facts complained of complete with names places and dates and where possible (by name or description) the witnesses which they desire to examine.
- 7 The supervising authority will then make arrangements for the second stage namely necessary particular enquiries which will, when desirable, be held locally.

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5. At this stage the examination should be confined to the prisoner and the Italian Government should be represented.
6. At the end of this stage the Mission should formulate allegations defining the principal facts complained of complete with names places and dates and where possible (by name or description) the witnesses which they desire to examine.
7. The supervising authority will then make arrangements for the second stage namely necessary particular enquiries which will, when desirable, be held locally.

CA BRISTOL
24 Aug 45

5065

YUGOSLAV PROPOSALS

- 1 The Government of Democratic Federative Yugoslavia expresses their satisfaction about the decision taken by the Allied Commission, permitting to send in Italy a Yugoslav Mission for investigation of war crimes.
The Yugoslav Government have the intention to form, as soon as possible the respective mission to be sent in Italy, kindly requesting the Allied Commission to effect that this mission might arrive in Italy to start with its work.
At the same time the Yugoslav Government have the honour, with reference to the Appendix "A" of said letter, to give the respective information:
- 1 The function of the Mission is to investigate; the archives where might be found evidence about war crimes committed upon the Nations of Yugoslavia; the camps where Yugoslav internees and prisoners have been located, and the examination of witnesses and suspect Italians and Yugoslavs about crimes committed by Italians and their accomplices. Further to take necessary steps to find and proved Italian criminals and their accomplices and to hand them over to Yugoslav tribunals; to inspect camps and jails where war criminals and traitors of Yugoslav people are located and to collect evidence of their crimes.
- 2 The Mission will consist of ten persons, four officers and six civilians.
The Mission will arrive at Bari by air, and proceed by cars. The Allied Commission is kindly requested to put at the disposal of the Mission 3 cars.
The interpreters will be provided by the same Mission.
- 3 The Headquarters of the Mission would be at the Yugoslav Delegation to the Advisory Council for Italy in Rome and would have a Representative to Allied Force Headquarters at Caserta.
Financial means would be furnished on charge of expenditures for the occupation according the Amstelre terms with Italy.
- 4 The Mission will investigate written evidence, taking away documents from Italian archives or making photographs; examining suspect people and witnesses in presence of two members of the Mission. In order to get hold of the people in question the Mission will apply to competent military authorities.
- 5 The Mission would have to investigate several thousand cases wherever archives, camps, jails and persons wanted for examination might be found.
- 6 Several groups of the said Mission are supposed to investigate simultaneously in different areas.
- 7 It is presumed that the investigations will take several months.
- 8 The Mission will request Allied Military Authorities to keep arrested the proved war criminals and traitors, either until a definite decision of the International Commission for war crimes, or until their extradition to the Yugoslav Authorities, as requested according to the Note of the Foreign Office No. 1577/29/73 dated March 29, 1945.

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II

At the same time the Yugoslav Delegation to the Advisory Council for Italy has the honour to state that the Yugoslav Government would not mind an Italian Mission to be established for investigation of war crimes committed by Germans upon Italian nationals

Rome, July 25, 1945

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COMMENTS ON THE PROPOSALS OF THE YUGOSLAV GOVERNMENT

1 There are several objections to the Yugoslav proposals. It is not, as the Italian request is, a mission to investigate a particular incident or incidents. They have not been particularized. The mission is a "fishing" mission to see if they can find out anything. There are no particular allegations disclosed. There are many objections to this type of "fishing" enquiry though we do not wish to appear to express a just enquiry nothing but generalities has at present been put forward. The enormous scope of the proposals is disclosed by the 8 page document at 1-2. It is probable that by now the thousands of persons there referred to, have been collected and moved by DHR Sub-Comm. If so there will be no evidence to be obtained in these places.

2 It seems to me that it would be better if this mission should first interrogate returning nationalists. If it then obtains evidence of any atrocity that the incident should be specified and that a local enquiry may then be properly made. The wide ranging commission seems too improper, undesirable and impracticable.

3 The Government can fairly be allowed reasonable facilities to assure itself that all Yugoslav nationals have been traced and suitably dealt with and that none are detained in prison, internment or elsewhere and that their criminal officials shall be supplied with lists of prisoners and shall have the opportunity of visiting them. If any such visit discloses evidence of an atrocity it may then be made the subject of an enquiry. It is suggested that the DHR Sub-Commission is a suitable body to clear these matters with the Mission and that enquiries shall be permitted into specified and defined allegations.

4 With regard to

Para 1-1 - A roving commission through Italian Archives everywhere is unreasonable so is the request to visit all prisons, camps, etc. The Mission should specify the atrocities into which enquiry is desired.

Para 1-2 - The size of the Mission is reasonable - it would not be capable of carrying out an enquiry on the scale outlined in 1-1 under a year or more.

Para 1-3 - NO has not been sufficient for its own requirements, APIN can better afford to provide cars. NO Grant is the proper person to comment on this.

Para 1-4 - Has finance any comment - does legal consider that this expense would legally come within the Arditi's terms as an expense of "occupation"?

Para 1-5 - This Commission should strongly oppose any right to remove documents from Italian Archives, which might thereby become disorganized and unintelligible. Properly authenticated copies can always be made. No Italian Nationals should be allowed to be called as witnesses before the commission unless there is a reasonable belief that they can supply evidence on specified facts.

Para 1-6 - It is submitted that now that the war is over this is an invasion of the reasonable and practical procedure. The Mission should only visit places specified in an allegation.

Para 1-7 - Each group would require an attendant officer as a go-between, between the Mission and Italian Officials and to arrange for the calling of witnesses cooperation for the enquiry etc. The number of groups should be specified.

Para 1-7 - If a roving commission is allowed

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Para 1-4 - Has finance any consent - does legal consider that this expense would legally come within the Arditi's terms as an expense of "occupation"?

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Para 1-7 - Each group would require an attendant officer as a go-between, between the Mission and Italian Officials and to arrange for the calling of witnesses associated with the enquiry etc. The number of groups should be specified.

Para 1-8 - If a roving commission is allowed "several months" may be very optimistic. Perhaps what is meant is "to arrest and hold". The offence will not be under arrest the enquiry is only unilateral. The intention presumably is that the Allies should arrest and hold persons alleged to be incriminated by the enquiries without any limitation as to the type of offence charged or as to the satisfactory nature or sufficiency of the evidence. The Allies must first be satisfied that a prima facie case has been made out and that the crime is of importance.

Generally - The Italian Government should have the right to attend all interviews and to question.

CA Section
24 Aug 45

0064

S.M. WHITE Lt Col,
CA Section

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