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Declassified E.O. 12356 Section 3.3/NND No. 785021

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LEGAL ADMINISTRATION
NOV. 1943 - AUG. 1944

MINUTE SHEET No.

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DATE

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Declassified E.O. 12356 Section 3.3/NND No. 785021

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SUBJECT : Legal Opinions.

TO : All Admin Sub-Commissions.

26 Aug 44

27 AUG 1944

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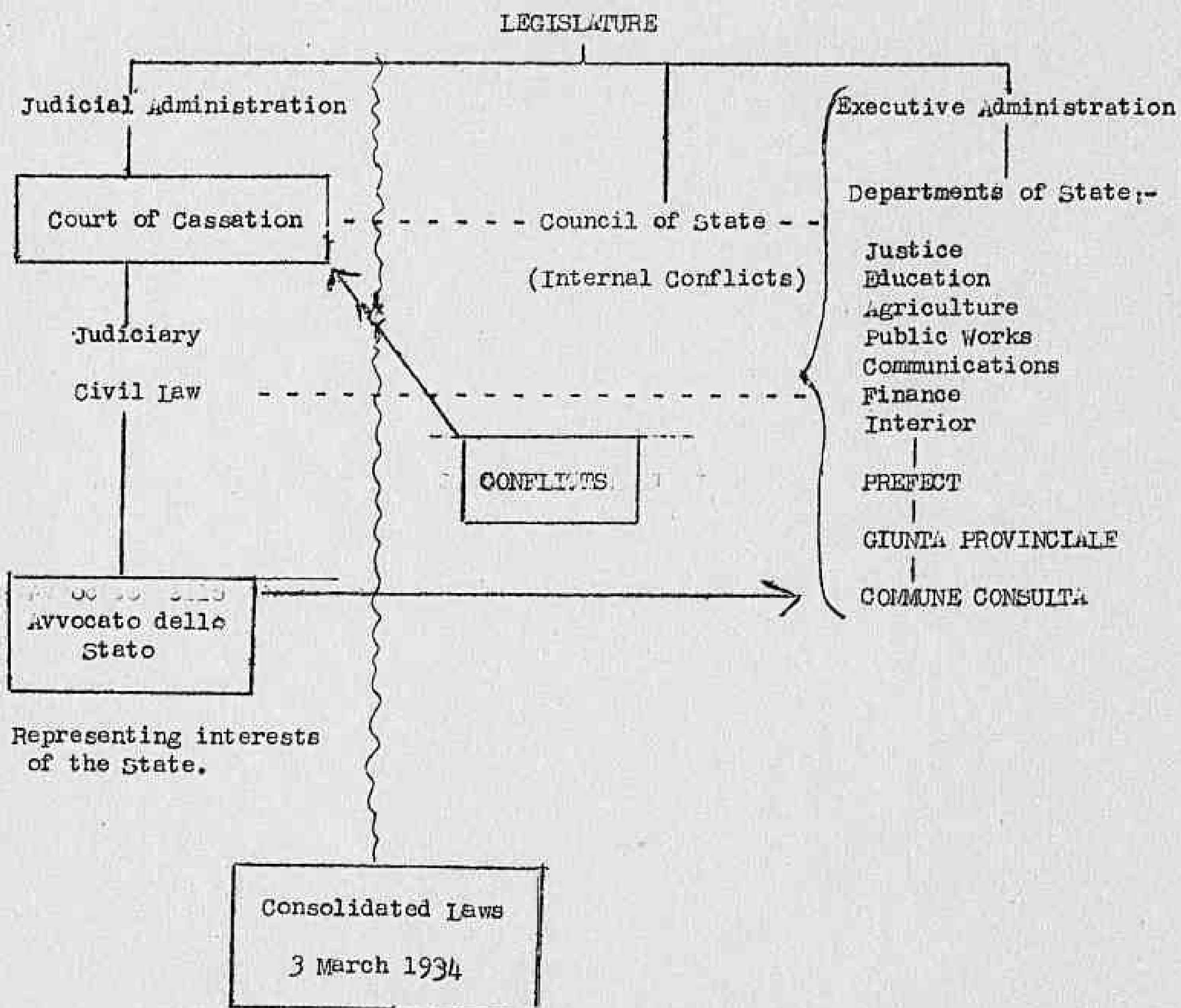
You are requested not to shew to Ministers or other persons outside ACC, copies of Legal opinions expressed by the Legal Sub-Commission without first obtaining the consent of the CLO.

Ext: 525
GRU/in

G.R. Upjohn
G.R. UPJOHN, Col
A/Head Admin Sec

3711

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

Ref /278/57/CA.

21 March 1944

EXECUTIVE MEMORANDUM)

NUMBER 43)

TO: Regional Commissioners - 10 ea.
SCAOs 5th and 8th Armies - 5 ea.
P.R.O. for APB 5

The Legal Sub-Commission requires for its proper functioning a copy of all orders or other publications controlling conduct of, or prescribing any form of procedure with regard to Italian nationals. It is desired that you furnish to the Legal Sub-Commission copies of such orders and publications as may now be in force, and that in future you send a record copy to the Legal Sub-Commission whenever any such documents are published.

Norman E. Fiske
NORMAN E. FISKE
Colonel,
Deputy Executive
Commissioner

Copy to Legal Sub-Commission

Copy to Interior Sub-Commission

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Declassified E.O. 12356 Section 3.3/NND No. 785021

From Adm Sec 17 Feb
To: Interior.

for information

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

EXECUTIVE MEMORANDUM)

12 February 1944.

NUMBER 7)

TO : Regional Commissioners, Regions I, II, and VI.

INSTRUCTIONS TO LEGAL OFFICERS IN
REGIONS TRANSFERRED TO THE ITALIAN
GOVERNMENT

1. GENERAL.

(a) As stated in Memorandum dated 23 January 1944, to which this directive is supplemental, upon the restoration of territory to the Italian Government subject to control by A.C.C. all powers of military government cease within the restored territory and the relationship between A.C.C. and the Italian Government depend entirely on contract. Such contracts is contained in the Armistice Terms, and forms the charter of A.C.C.

(b) For security reasons it is not possible to communicate now in written form the Armistice Terms, but from time to time the Chief Legal Officers in the Regions will be given appropriate information sufficient to enable them to carry out their duties.

(c) It will continue to be the duty of the Chief Legal Officers in the Regions to advise the Regional Commissioners (R.C.'s) on all legal matters affecting the Region. This directive is intended in part to assist the Chief Legal Officers in the Regions in giving advice to the R.C.'s in connection with the newly acquired powers and duties of A.C.C. personnel in the field. It must be appreciated that in furnishing such advice, as pointed out in para (a) above, the position has essentially changed and the powers of military government have ceased and are superseded by the Armistice Terms. In particular and subject to any special directives that may be issued the functions of the R.C.'s cease to be executive and become purely advisor and supervisory. Orders are no longer given by the R.C.'s but by the Italian Administrative officials and it is the duty of the R.C.'s within his region to see that the Italian Administration carries out the orders received from higher Italian authority (as to which the R.C.'s will be duly informed) and to report to H.Q. A.C.C. any failure to do so. It will no longer be within the province of the R.C.'s to issue proclamations and General or Regional Orders but to advise and supervise the local authorities in such matters. It follows that in the initial stages and until the Italian Government has proved its capacity to govern, a number of problems may arise which will have, as a matter of policy, to be referred to H.Q. A.C.C., but in matters of urgency Chief Legal Officers in the Regions will not hesitate to exercise their judgement and common sense in giving advice pending the receipt of instructions from H.Q. A.C.C.

(d) Initially the Chief Legal Officer in a Region and his Legal Officers will remain at their posts to carry out their duties set forth herein and will retain their offices, motor equipment and requisitioned property to the extent necessary to perform their duties.

(e) On the restoration of territory the Chief Legal Officer in a Region will

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(b) For security reasons it is not possible to communicate now in written form the Armistice Terms, but from time to time the Chief Legal Officers in the Regions will be given appropriate information sufficient to enable them to carry out their duties.

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(d) Initially the Chief Legal Officer in a Region and his Legal Officers will remain at their posts to carry out their duties set forth herein and will retain their offices, motor equipment and requisitioned property to the extent necessary to perform their duties.

(e) On the restoration of territory the Chief Legal Officer in a Region will prepare and forward to the H.Q. A.C.C., through the R.C., his report on the activities of his office running from the date of his last monthly report to the date of restoration.

2. ALLIED MILITARY COURTES.

(a) Legal Officers will see that all pending cases are completed as quickly as possible and the records, petitions for review, etc., are speedily transmitted to the Chief Legal Officer in the Region.

(b) All reviews will be expedited and the following system (as set out in Proclamation No. 14) will be followed:

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(1) Any person convicted by an Allied Military Court may, within thirty days after imposition of sentence, file with the trial court or forward to the Chief Legal Officer in the Region a petition addressed to the Chief Commissioner submitting reasons why the conviction should be set aside or the sentence should be modified.

(ii) Every record of trial by an Allied Military Court shall be transmitted to the Chief Legal Officer in the Region for examination and file. The record in any case may on the recommendation of the Chief of the Legal Sub-Commission, and shall, in the event of the sentence exceeding two years imprisonment or a fine of L. 50,000 be reviewed by the Chief Commissioner or by an A.C.C. Officer not below the rank of Lieutenant Colonel who may be appointed by the Chief Commissioner for that purpose. Where there has been no petition of appeal as above provided and the sentence does not exceed two years imprisonment or a fine of L. 50,000 the Chief Legal Officer in the Region shall review the case and may appoint a judicial officer not below the rank of Major for that purpose. Confirmation of death sentences remains as heretofore.

(c) If Military Zones are established in unoccupied territory and Allied Military Courts function therein, Summary and Superior Military Courts will be established either by the Commanding Officer, if the power to do so has been delegated to him, or by the R.C., if still functioning; otherwise by H.Q. A.C.C. A General Military Court may be established only by H.Q. A.C.C.

(d) If Allied Military Courts are to be set up at all in any other part of unoccupied territory, the requisite Military Court, will be established by H.Q. A.C.C. at the request of the R.C. concerned. A separate Directive with regard to the constitution and mode of application for such courts will be issued.

(e) All cases tried by Allied Military Courts referred to in 2 (a) and (d) above, will be reviewed solely by H.Q. A.C.C. until further order.

(f) In closing the activities of the Legal Division of any region as to Allied Military Courts the following specific acts among others shall be performed by the Chief Legal Officer in the Region, or as he shall direct;

(i) The Italian Government will be required to carry out all sentences imposed by Allied Courts as though imposed by their own Courts. However, all cases in which a conviction has resulted and the sentence has not been fully executed will be re-examined and in appropriate cases recommendation for pardon or modification will be made to the R.C. & M.G. Section, A.C.C., for the Legal Sub-Commission, with reasons therefor. All cases in which severe sentences were originally passed and subsequently confirmed, because of military considerations which no longer prevail should therefore be reconsidered by the Chief Legal Officer in the Region with the advice, where possible, of the presiding officer who tried the case, and the Chief Legal Officer in the Region should forward his recommendation to the Legal Sub-Commission, H.Q. A.C.C. This is not to be regarded as an

sentence exceeding two years imprisonment or a fine of L. 50,000 be reviewed by the Chief Commissioner or by an A.C.C. Officer not below the rank of Lieutenant Colonel who may be appointed by the Chief Commissioner for that purpose. Where there has been no petition of appeal as above provided and the sentence does not exceed two years imprisonment or a fine of L. 50,000 the Chief Legal Officer in the Region shall review the case and may appoint a judicial officer not below the rank of Major for that purpose. Confirmation of death sentences remains as heretofore.

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(ii) A careful check of outstanding fines will be made, steps will be taken to collect unpaid fines and a report will be made to the Chief of the Legal Sub-Commission at H.Q. A.C.C.

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- (iii) All Allied Military Courts dockets will be checked for accuracy of entries required to be made including data on payment of fines and to determine that all fines collected have been remitted to proper authorities. All records properly indexed and files will be held by the Chief Legal Officer of the Region for disposition on orders from Chief of the Legal Sub-Commission, H.Q. A.C.C.

3. WAR CRIMES.

In the event that any evidence should come to the notice of Legal Officers indicating that a War Crime has been committed of the type mentioned in A.F.H. Circular dated 27 November 1943, of which copies were transmitted to the Chief Legal Officers of Regions I and II on 6 January 1944, this will be immediately brought to the notice of the Chief of the Legal Sub-Commission, H.Q. A.C.C., and a report in the manner set forth in such Directive shall be made to the Chief of the Legal Sub-Commission, H.Q. A.C.C. If an Italian Courts is proposing to try such a case it should be advised against doing so and an immediate report on this situation should be transmitted to the Chief of the Legal Sub-Commission, H.Q. A.C.C.

4. ITALIAN LEGISLATION AND LAWS.

The Chief Legal Officers in the Regions, acting through R.C.'s, will not concern themselves with any amendments to Italian legislation or laws on the ground that they are Fascist or discriminatory, or with suspension of such laws, as all such matters will be dealt with by H.Q. A.C.C. Any suggestions for abrogation, revision or amendment of any Italian legislation will be transmitted to H.Q. A.C.C.

Amendments to rules of procedure which have been initiated during A.M.G. will, however, be continued by the Italian Administration and any departure from such amendments will forthwith be reported to H.Q. A.C.C.

5. DETAINEES.

No persons detained under Article VII of Proclamation No. 2 will be released without further orders from H.Q. A.C.C., but Chief Legal Officers in the Regions will prepare lists of persons so detained. Such lists will show places of detention, and the Chief Legal Officers in the Regions will forward them with his comments to H.Q. A.C.C. within 14 days of the restoration of territory to the Italian Government.

6. ITALIAN MILITARY TRIBUNALS.

These Tribunals will be allowed to function in accordance with the Military Penal Code of Law (Codice Penale Militare di Guerra) and the restrictions laid down by Directive with regard to the holding of these Courts under A.M.G. will be disregarded. If any reports are received indicating that any trial has been unsatisfactory, the circumstances will be investigated and a report made to H.Q. A.C.C.

7. ITALIAN COURTS GENERALLY.

Q. Circular dated 27 November 1943, of which copies were transmitted to the Chief Legal Officers of Regions I and II on 6 January 1944, this will be immediately brought to the notice of the Chief of the Legal Sub-Commission, H.Q. A.C.C., and a report in the manner set forth in such directive shall be made to the Chief of the Legal Sub-Commission, H.Q. A.C.C. If an Italian Courts is proposing to try such a case it should be advised against doing so and an immediate report on this situation should be transmitted to the Chief of the Legal Sub-Commission, H.Q. A.C.C.

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7. ITALIAN COURTS GENERALLY.

All civil and criminal courts functioning at the date of the restoration of territory to the Italian Government will continue to function and any attempt to close such courts will forthwith be reported to H.Q. A.C.C.

If any Criminal Courts have not been reopened at the date of restoration steps will be taken to encourage their reopening at the earliest possible date subject to suitable personnel being available (see para. 8 below). If any Courts remain unopened one month after the restoration of territory to the Italian Government a report stating the Courts remaining unopened and the reason therefor will be rendered to H.Q. A.C.C.

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The above does not apply to any Corte di Cassazione which will only be reconstituted under the orders of H.Q. A.C.C.

The Chief Legal Officer in the Region will no longer concern himself with the supervision of Italian Courts except for the purpose of carrying out his duties under this or any subsequent directive and he will formally hand over to the First President of the Courts of Appeal within his Region the management and supervision of Italian Courts and personnel.

8. JUDGES AND OFFICIALS OF COURTS.

(a) All judges and Italian legal officers will be appointed, promoted or removed by the Italian Government with the consent of H.Q. A.C.C. and the R.C. will not be responsible for any further appointments, promotions or removals.

(b) Chief Legal Officers in the Regions will appoint a legal liaison officer to act with the First President of each Court of Appeal who will carry out the following duties:

- (i) To advise and assist the First President in opening any Courts not yet opened in the administration of the Court of Appeal District.
 - (ii) To see that all appointments, promotions and removals of officials made by the Italian Government as notified to him by H.Q. A.C.C. are duly carried out.
 - (iii) To notify immediately H.Q. A.C.C. (Through Regional H.Q.) of any purported appointments, promotions or removals not sanctioned by H.Q. A.C.C. If any judge or official appointed by A.C.C. is proposed to be removed without the sanction of H.Q. A.C.C. he will advise the First President against taking any action without the consent of H.Q. A.C.C.
 - (iv) To report to H.Q. A.C.C. (through Regional H.Q.) any cases of biased or incompetent behavior on the part of judges or officials which come to his notice and to investigate any complaints received from an advocate or prisoner of unfair treatment by an Italian Court, and if the complaint appears to be well founded to forward a report and recommendation to H.Q. A.C.C. (through Regional H.Q.).
 - (v) Generally to keep Regional H.Q. and H.Q. A.C.C. advised of all relevant matters in the Court of Appeal District such as the Reorganization of the Bar Association, the holding of examinations for advocates or procuratori, the reorganization of Notarial Councils and so forth.
- (c) Chief Legal Officers in the Regions will inform H.Q. A.C.C. of the officers appointed as liaison officers to First Presidents as soon as possible.
- (d) Committees already sitting to consider the appointment of judges and officials will be abolished unless the First President desires their continuance.

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- (ii) To see that all appointments, promotions and removals of officials made by the Italian Government as notified to him by H.Q. A.C.C. are duly carried out.
- (iii) To notify immediately H.Q. A.C.C. (Through Regional H.Q.) of any purported appointments, promotions or removals not sanctioned by H.Q. A.C.C. If any judge or official appointed by A.M.G. is proposed to be removed without the sanction of H.Q. A.C.C., he will advise the First President against taking any action without the consent of H.Q. A.C.C.
- (iv) To report to H.Q. A.C.C. (through Regional H.Q.) any cases of biased or incompetent behavior on the part of judges or officials which come to his notice and to investigate any complaints received from an advocate or prisoner of unfair treatment by an Italian Court, and if the complaint appears to be well founded to forward a report and recommendation to H.Q. A.C.C. (through Regional H.Q.).
- (v) Generally to keep Regional H.Q. and H.Q. A.C.C. advised of all relevant matters in the Court of Appeal District such as the Reorganization of the Bar Association, the holding of examinations for advocates or procuratori, the reorganization of Notarial Councils and so forth.
- (e) Chief Legal Officers in the Regions will inform H.Q. A.C.C. of the officers appointed as liaison officers to First Presidents as soon as possible.
- (d) Committees already sitting to consider the appointment of judges and officials will be abolished unless the First President desires their continuance, nor will it be the duty of the Chief Legal Officers in the Regions to take any steps to fill any vacancies to Italian Legal Offices.
- (e) If a list of judges has not already been compiled and sent to H.Q. A.C.C. the Chief Legal Officers in the Regions will compile a list of all judges and legal officials in office and forward it to H.Q. A.C.C. as soon as possible.

9. CONCLUSION OF DUTIES OF LEGAL OFFICERS.

- (a) Any Legal Officer in the Region who has completed his work may be ordered by the R.C. to another post in the Region to assist another officer to complete his work or be otherwise assigned in the Region as circumstances warrant.

(b) When Legal Officers have completed all cases and have performed all other duties assigned to them, they will so report to the Chief Legal Officer in the Region and he in turn will so report to the Legal Sub-Commission, H.Q. A.C.C. If then so ordered they will close their offices and report in person to the Chief Legal Officer in the Region with all records and equipment other than that which has been requisitioned and turned back to the owners upon receipt from them.

(c) It is essential that all Legal Officers complete their work with the utmost expedition, as their services are urgently required in occupied territory.

By Command of Lieutenant General MAURIN MACFARLANE.

M. S. LUSH
Brigadier,
Executive Commissioner.

SECRET

ATTACHED FROM

GENERAL ADMINISTRATIVE INSTRUCTION NO. 2.

SECRET

1. GENERAL.

(a) As stated in General Administrative Instruction No. 1, to which this directive is supplemental, upon the restoration of territory to the Italian Government subject to control by A.C.G., all powers of military government cease within the restored territory and the relationship between A.C.G. and the Italian Government depends entirely on contract. Such contract is contained in the armistice terms, and forms the charter of A.C.G.

(b) For security reasons it is not possible to communicate now in written form the armistice terms, but from time to time A.C.G.Os. will be given appropriate information sufficient to enable them to carry out their duties.

(c) It will continue to be the duty of the A.C.G.O. to advise the R.C.A.O. in all legal matters affecting the Region. This directive is intended in part to assist the A.C.G.O. in giving advice to the R.C.A.O. in connection with the newly acquired powers and duties of A.C.G. personnel in the field. It must be appreciated that in furnishing such advice, as pointed out in para. (a) above, the position has essentially changed and the powers of military government have ceased and are superseded by the armistice terms. In particular and subject to any special directives that may be issued the functions of the R.C.A.O. cease to be executive and become purely advisory and supervisory. Orders are no longer given by the R.C.A.O. but by the Italian administrative officials and it is the duty of the R.C.A.O. within his region to see that the Italian administration carries out the orders received from higher Italian authority (as to which the R.C.G.O. will be duly informed) and to report to A.C.G. any failure to do so. It will no longer be within the province of the R.C.A.O. to issue proclamations and General or Regional Orders but to advise and supervise the local authorities in such matters. It follows that in the initial stages and until the Italian Government has proved its capacity to govern, a number of problems may arise which will have as a matter of policy to be referred to A.C.G. but in matters of urgency R.C.G.Os. will not hesitate to exercise their judgment and common sense in giving advice pending the receipt of instructions from A.C.G.

4. ITALIAN LEGISLATION AND LAWS.

R.C.G.Os. acting through A.C.G.Os. will not concern themselves with any amendments to Italian legislation or laws on the ground that they are fascist or discriminatory, or with suspension of such laws, as all such matters will be dealt with by A.C.G. Any suggestions for amendment, revision or enactment of any Italian legislation will be transmitted to A.C.G.

Amendments to rules of procedure which have been initiated during A.C.G. will however be continued by the Italian Administration and any departure from such amendments will forthwith be reported to A.C.G.

5. INDICES AND OFFICIALS OF COURTS.

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(b) For security reasons it is not possible to communicate now in written form the assistance terms, but from time to time H.C.I.C. will be given appropriate information sufficient to enable them to carry out their duties.

(c) It will continue to be the duty of the H.C.I.C. to advise the H.C.A.O. in all legal matters affecting the Region. This directive is intended in part to assist the H.C.I.C. in giving advice to the H.C.A.O. in connection with the newly acquired powers and duties of A.C.C. personnel in the field. It must be appreciated that in furnishing such advice, as pointed out in para.(a) above, the position has essentially changed and the powers of military government have ceased and are superseded by the assistance terms. In particular and subject to any special directives that may be issued the functions of the H.C.A.O. cease to be executive and become merely advisory and supervisory. Orders are no longer given by the H.C.A.O. but by the Italian administrative officials and it is the duty of the H.C.I.C. within his region to see that the Italian administration carries out the orders received from higher Italian authority (as to which the H.C.A.O. will be duly informed) and to report to H.C.C. any failure to do so. It will no longer be within the province of the H.C.A.O. to issue proclamations and General or Regional Orders but to advise and supervise the local authorities in such matters. It follows that in the initial stages and until the Italian Government has proved its capacity to govern, a number of problems may arise which will have as a matter of policy to be referred to H.C.C. but in matters of urgency H.C.I.C. will not hesitate to exercise their judgment and common sense in giving advice pending the receipt of instructions from H.C.C.

4. ITALIAN LEGISLATION AND DECREES.

H.C.A.Os. acting through H.C.I.C. will not concern themselves with any amendments to Italian legislation or laws on the ground that they are a legislative or administrative, or with suspension of such laws, as all such matters will be dealt with by H.C.C. Any suggestion for amendment, revision or amendment of any Italian legislation will be transmitted to H.C.C. A.C.C.

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5. JUDGES AND OFFICIALS OF COURTS.

(a) All judges and legal officers will be appointed, promoted or removed by the Italian Government with the consent of H.C.C. and the H.C.A.O. will not be responsible for any further appointments, promotions or removals.

(b) H.C.I.Cs. will appoint a legal liaison officer to act with the President of each Court of Appeal of Palermo, Messina, Catania, Caltanissetta and sections at Potenza who will carry out the following duties:-

(i) To advise and assist the First President in opening any Courts not yet opened in the administration of the Court of Appeal District.

(ii) To see that all appointments, promotions and removals of officials made by the Italian Government as notified to him by H.C.C. are duly carried out.

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(iii) To notify immediately to H.Q. A.C.C. (through Regional H.Q.) of any purported appointments, promotions or removals not sanctioned by H.Q. A.C.C. If any judge or official appointed by AMI is proposed to be removed without the sanction of H.Q. A.C.C., he will advise the first President against taking any action without the consent of H.Q. A.C.C.

(iv) To report to H.Q. A.C.C. (through Regional H.Q.) any cases of biased or incompetent behavior on the part of judges or officials which come to his notice and to investigate any complaints received from an advocate or prisoner of unfair treatment by an Italian Court and if the complaint appears to be well founded to forward a report and recommendation to H.Q. A.C.C. through Regional H.Q.

(v) Generally to keep Regional and H.Q. A.C.C. advised of all relevant matters in the Court of Appeal District such as the Reorganization of the Bar Association, the holding of examinations for advocates or procurators, the reorganization of Notarial Councils and so forth.

(c) H.Q.I.O. will inform H.Q. A.C.C. of the officers appointed as liaison officers to the Presidents as soon as possible.

(d) Committees already existing to consider the appointment of judges and officials will be abolished unless the 1st President desires their continuance, nor will it be the duty of the H.Q.I.O. to take any steps to fill any vacancies to Italian legal offices.

(e) If a list of judges has not already been compiled and sent to H.Q. A.C.C. the H.Q.I.O. will compile a list of all judges and legal officials in office and forward it to H.Q. A.C.C. as soon as possible.

9. DISSEMINATION OF DECISIONS OF LEGAL OFFICERS.

(a) Any legal officer in the Region who has completed his work may be ordered by the H.Q.I.O. to another post in the region to assist another officer to complete his work for be otherwise assigned in the region as circumstances warrant.

(b) When legal officers have completed all cases and have performed all other duties assigned to them, they will so report to the H.Q.I.O. and he in turn will so report to C.I.O. H.Q. A.C.C. If cases are ordered they will close their offices and report in person to the H.Q.I.O. with all records and equipment other than that which has been requisitioned and turned back to the experts upon receipt from them.

(c) It is essential that all legal officers complete their work with the utmost expedition, as their services are urgently required in occupied territory.

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(iii) To notify immediately to Hq. A.G.C. (through Regional Hq.) of any purported appointments, promotions or removals not sanctioned by Hq. A.G.C. If any judge or official appointed by ASZ is promoted to be removed without the sanction of Hq. A.G.C. he will advise the first President against taking any action without the consent of Hq. AGU.

(iv) To report to Hq. A.G.C. (through Regional Hq.) any cases of biased or incompetent behavior on the part of judges or officials which come to his notice and to investigate any complaints received from an advocate or prisoner of unfair treatment by an Italian Court and if the complaint appears to be well founded to forward a report and recommendation to Hq. A.G.C. through Regional Hq.

(v) Generally to keep Regional AGU and Hq. A.G.C. advised of all relevant matters in the Court of Appeal District such as the Reorganization of the Bar Association, the holding of examinations for advocates or procurators, the reorganization of Notarial Councils and so forth.

(c) R.C.I.O. will inform Hq. A.G.C. of the officers appointed as liaison officers to let them know as soon as possible.

(d) Committees already existing to consider the appointment of judges and officials will be abolished unless the last President desires their continuance, nor will it be the duty of the R.C.I.O. to take any steps to fill any vacancies to Italian legal offices.

(e) If a list of judges has not already been compiled and sent to Hq. A.G.C. the R.C.I.O. will compile a list of all judges and legal officials in office and forward it to Hq. A.G.C. as soon as possible.

9. COMPOSITION OF OFFICE OF LEGAL OFFICERS.

(a) Any legal officer in the Region who has completed his work may be ordered by the R.C.I.O. to another post in the region to assist another officer to complete his work or be otherwise assigned in the region as circumstances warrant.

(b) When legal officers have completed all cases and have performed all other duties assigned to them, they will report to the R.C.I.O. and he in turn will report to C.I.O. Hq. A.G.C. If then so ordered they will close their offices and report in person to the R.C.I.O. with all records and equipment other than that which has been requisitioned and turned back to the owners upon receipt from them.

(c) It is essential that all legal officers complete their work with the utmost expedition, as their services are urgently required in occupied territory.

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Internee

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HEADQUARTERS
ARMED MILITARY GOVERNMENT

A/C/4002/L.

1 November 1943.

ADMINISTRATIVE INSTRUCTION (LEGAL)

1. Summary Courts have jurisdiction to impose a sentence of imprisonment for not more than one year or a fine of not more than 50,000 lire or both such imprisonment and fine. Further, the Court has power to order imprisonment in default of payment of a fine, but in no case can a person convicted by a Summary Court be kept in prison in respect of that conviction for more than one year.
2. A sentence of one year's imprisonment and a fine of 20,000 lire means, therefore, that whether the fine is paid or not, the accused must be released at the expiration of one year.
3. Similarly, no person convicted by a Superior Court can be detained in respect to that conviction for more than ten years.
4. Where a fine alone is imposed the Court should specify the period to be served in default of payment such period not being merely assessed on the Italian basis of 50 lire a day, but having regard to the probable capacity of the accused to pay.
5. Where a sentence of imprisonment and fine is imposed, the sentence should be in the following form:

"Two months imprisonment and a fine of 50,000 lire; in default of payment of the fine, accused to serve a further period of three months imprisonment."
6. Please take steps to see that all officers trying cases are instructed accordingly.

WILLIAM C. CHANLER,
Lt. Col., FA,
Chief Legal Officer.

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Enna (2)
Palermo (4)
Puglia (3)
Syracuse (2)
Messina (3)
Trapani (3)
RCAO Region II (25)

AMCO Liaison (1)
" 8th Army (6)
" 5th Army (6)
" 15th Army Group (6)
MGS AFHQ (12)
Sub-Commissions (15)
File (1)

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" 15th Army Group	(6)
MCS AFHQ	(12)
Sub-Commissions	(15)
File	(1)
Fleet	(1)
Spares	(20)

WILLIAM C. CHAMLER,
Lt. Col., FA,
Chief Legal Officer.

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