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(VOL. 2)

TRIAL OF
MAY, JUNE

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TRIAL OF ALLIED NATIONALS IN ITALIAN COURTS
MAY, JUNE 1946

4091/14
V

HEADQUARTERS
ALLIED SCREENING COMMISSION(ITALY)
C.M.F.

294

To:- Legal Sub-Commission,
H.Q. Allied Commission,
A.P.O. 794,
C.M.F.

Subject:- SPANGENTHAL Case.

Reference your AC/4001/11/L dated 31 May 46.

I am directed by Lt.Col. de BURGH, G.S.O.1. Allied Screening Commission (Italy) to say that he is prepared to withdraw the charge against SPANGENTHAL, provided the South African authorities will remove SPANGENTHAL from Italy in the immediate future.

J.H. Aiken

J.H. AIKEN Major.
For Lt.Col. GS.
Allied Screening Commission(Italy)
C.M.F.

5 June. 46.

LEGAL SUB-COM

C/O

C/O

Chief Counsel

C/O

Italian Section

CLERKS

7 June 46

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB-COMMISSION

218A

AC/4001/11/L.

/ada.

31 May 1946.

SUBJECT : Spangenthal case.

TO : Allied Screening Commission.

1. Copy of Major General THORCH's is enclosed.
2. It is the opinion of this Sub-Commission that if no security charge can be brought against Spangenthal and no further claims are made against him, that he be allowed to settle out of court the existing claims and the pending charges consequently could be withdrawn.

G.G. HANNAFORD,
Lt. Colonel,
Deputy Chief Legal Advisor.

Copy to South African Minister.

4001/14



THERON *DL*

Legal s/c

SUID AFRIKAANSE GESANTSKAP
SOUTH AFRICAN LEGATION

ROME May 30th.

To the Executive Commissioner.
Allied Commission.
Rome.

Sir;

RE.Case. Allied Screening Commission versus Spangenthal.

Following on my conversation with Brigadier Lush and Colonel Hanneford yesterday regarding the Spangenthal case I would very much appreciate it if early steps could be taken to bring the matter to finality so that Spangenthal may return to South Africa.

This man was married to-day to Miss E. Perugini who sheltered him whilst an escaped P.O.W. and he journeyed to Italy for this express purpose.

I am anxious that these South African Nationals should return to the Union as soon as the case has been disposed of, to prevent their becoming a further charge on my government in the event of the process of Italian justice being considerably prolonged.

Yours sincerely,

J. H. Meesh

Official Representative of the Government
of the Union of South Africa.

EC DIST - 30 May

ACTION - LEGALS/C

INFO - EC.

For Legal Sub Commission -

*Ok. PA to Ex Comm.
30/5*

2

HEADQUARTERS ALLIED COMMISSION

APO 394

Office of the Executive Commissioner

Ref : 2604/EG

23 May 1946.

We have discussed from time to time the question of the subjection to Italian jurisdiction of Allied and other non-Italian civilian nationals. I refer to those who are not subject to military law by virtue of their being in Italy under military orders and so subject to the military law of their own country.

I have discussed it with the Commission's legal advisers and with the legal adviser of the British Embassy, as well as with other members of the Embassy.

The Allied Commission legal advisers point out that on no less than four occasions they, both British and US, have given their opinion "that civilian allied nationals who are (i) not subject to the military law of the Occupying Powers, or (ii) are not excluded under the Restoration Agreements, are within the jurisdiction of the Italian Courts and may be tried by them".

The argument that a country, e.g., Great Britain, is de jure still at war with Italy, makes no difference to this ruling. The facts are that Great Britain with her Allies have recognised the Italian Government as the legal government in co-belligerent Italy, pending the elections, and therefore must recognise her courts. It follows, therefore, that Allied nationals who are not subject to military law must be subject to the only other law in the land, viz., the Italian law.

The fact that those persons shown in parenthesis in paragraph 3 above are specifically mentioned in Clause 12 of the "Terms of Restoration" as not liable to trial by Italian Courts without SACMED's approval (and note that he can give such approval) points to the fact that other Allied civilian nationals are subject to Italian law.

I hope the above may help to clarify your mind, as it has mine.

/s/ M.S. LUSH

Brigadier Alban Low, CBE, MC,
Commander,
Headquarters,
Home Area Allied Command.

action

EKS

Copy to: GLA.

31 MAY 1946

