

ACC

10000/142/21
(VOL. III)

10000/142/21
(VOL. III)

ALLIED MILITARY COURTS, GENERAL
MAR. 1944 - JAN. 1947

2nd sheet

TO : C. A. Sec.

Reference Lt. Col. White's enquiry, action required by 249 A had already been taken by our letter to R.C. Southern Region dated 15 Jan 45. Please see Polio 243 A. and 250 A

Legal Sub-Commission
2 February 1945.

W. M. BENTLEY, Colonel,
Deputy Chief Legal Advisor.

To, CA Sec.

Wax for signature by VP, if approved

1677m

Legal

Signed, but please substitute this for the first this in line 2 of para 4.

17 Mar 45 SP2m

W. M. Bentley
CA Sec.

131

1.

CAS.

Action on
~~Reply to~~ folio 245A for approval; letter for signature please

21 Dec 44

✓ Under
for
DCA.

2

CAS.

1. At folio 245 B is a letter from R.C. Southern Region stating that he had been trying to borrow officers from training centres, to set on military Courts: that GOC 3 District was willing to help but stated that he could not do so as such centres were directly under AF HQ: & asking us to take this up with AF HQ.

2. Action was taken at folio 245 A & Southern Region informed (246A)

3. A satisfactory answer has been received from AF HQ - see folio 247: GOC 3 District CAN provide officers & AF HQ is so informing him.

4. Letter to Southern Region, attaching copy of AFHQ letter, at folio 248 for signature by you, please, the original letter having been signed by Regional Commissioner personally.

legat: 15 Jan 45

1. (a) reply to CAS
for DCA
(absent on duty)

15/1/45

4002

C O P Y

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL DIVISION

300A

30 January 1947

SUBJECT : Spy and Sabotage Cases.

TO : The Chief Legal Officer

The following is a report of the Review Board on 29 spy cases involving 39 spies, 3 sabotage cases involving 5 saboteurs, and 2 cases where accused were both convicted of doing an act in aid of the enemy. Although most of the accused are spies, all are guilty of espionage or war treason offences. In the sabotage cases, the accused were caught before they had completed their missions. There is no question about their intent to commit acts of sabotage. They had the necessary explosives etc; in their possession. The sabotage cases are very similar to the spy cases where the spy was caught as he or she was entering our lines and before any work had been accomplished. The offences these accused committed, or attempted to commit, are considered as war crimes, in that the acts were acts of war against our armed forces, and the normal punishment for these offences is death. The Review Board is of the opinion that these cases are so similar they should be treated the same. (See Manual of Military Law, 1929 Amendments (No 12) (British) The Laws and Usages of War on Land, (iii) The Punishment of War Crimes Par. 441 and 445).

With reference to the spy cases, your attention is ¹³ called to the fact that international law recognizes the well-established right of belligerents to employ spies and other secret agents for obtaining information of the enemy. Resort to the practice involves no offence against international law. Spies are punished, not as violators of the laws of war, but to render that method of obtaining information as difficult, and ineffective, as possible for the enemy. According to international law, the spy is punished with death whether or not he succeeds in obtaining the information or in conveying it to the enemy. (See F.M. 27-10, War Department, Basic Field Manual, Rules of Land Warfare Par. 202, 203, and 204).

- 2 -

All spies were not sentenced to death by the courts. Some were given prison sentences. In this connection it is interesting to note that under International Law, a spy is punishable by death. (See F.M. 27-10, Par.209, "Rules of Land Warfare" - U.S.; see also, Article 82, Articles of War, "Manual of Courts Martial, U.S. Army, 1928", wherein death is the punishment for a spy.) The framers of the Proclamations assumed that a sentence less than death might lawfully be imposed upon a spy. In deference to such legal authority Allied Military Courts have imposed terms of imprisonment for some persons convicted of being spies. It is with this situation that we are now confronted.

The following table lists all known accused to whom, because of their age, sex, or some other reason, the courts or the reviewing authority gave a sentence less than death :

No	Name	Offence	Sentence of Court	Original Review
1	Michelon, Gastone	Spy	20 yrs	Affirmed
2	Barelli, Franco	"	20 "	"
3	Ferrari, Giuseppe	"	Death	15 yrs
4	Menechelli, Giovanni	"	Life	Affirmed
5	Cechi, Fernanda	"	Death	Life
6	Acqua, Gaetano	"	Death	20 yrs
7	Pellegrini, Carlo	"	Death	20 yrs
8	Alberti, Emilio	"	Death	20 yrs
9	Montaldi, Bruno	"	Death	20 yrs
10	Ravero, Valerio	"	Death	20 yrs
11	Racagni, Natale	"	Life	20 yrs
12	Miceli, Silvio	"	Death	Life
13	Dionisio, Francesco	"	Death	Life
14	Gorga, Aldo	"	20 yrs	Affirmed
15	Costa, Carla	"	20 yrs	"
16	Gorga, Enrico	"	15 yrs	"
17	Dei Brentis Anna Maria	"	20 yrs	"
18	Galvagno, Claudio	"	Death	20 yrs
19	Celesti, Letterio secondo	"	Life	Affirmed
20	Fabbi Aristide	"	Death	25 yrs
21	Magistrelli Adolfo	"	Death	10 yrs
22	Serra Evodio	"	Death	20 yrs

- 3 -

<u>No</u>	<u>Name</u>	<u>Offence</u>	<u>Sentence of Court</u>	<u>Original Review</u>
23	Mei, Ugo Enzo di Silvio	Spy	Death	20 yrs
24	Mei, Ezio Guido	"	20 yrs	Affirmed
25	Fugardi, Francesco	"	15 yrs	"
26	De Santis, Vincenzo	"	20 yrs	"
27	Puccia, Antonio	"	20 yrs	"
28	Picknel, Liselot	"	20 yrs	"
29	Antoniuccio, Giorgio	"	Death	20 yrs
30	Bardani, Ivo	"	Death	Life
31	Curreli, Mario	"	Death	Life
32	Conca, Domenico	"	Death	Life
33	Ansalone, Emilia	"	10 yrs	Affirmed
34	Barghiglioni, Carlo	"	20 yrs	"
35	Spera, Olga	"	18 yrs	"
36	Boni, Tecla	"	Death	10 yrs
37	Baraldi, Giovanna	"	Death	10 yrs
38	Bevilacqua, Emilio	"	20 yrs	Affirmed
39	Covella, Federico	"	Death	20 yrs
40	Bendandi, Leopoldo	Sabotage	Death	20 yrs
41	Vasconi, Giorgio	"	Death	20 yrs
42	Trifirò, Mario	"	Death	20 yrs
43	Falconi, Mario	"	Death	15 yrs
44	Lo Vasto, Vincenzo	"	Death	15 yrs
45	Paganotto, Fabio	Aiding enemy	Life	Affirmed
46	Bandino, Carlo	"	" 10 yrs	"

In all other cases reviewed, the Board of Review were in a position to adjust the sentences, because the offences were penal in character. Where a deterrent sentence was given, the deterrent factor was removed and a reasonable sentence was recommended as if the offence were committed in time of peace. However, in these war offences, the Review Board cannot logically adjust a sentence which is not penal in nature. It is the opinion of the Review Board that the above accused were properly tried and convicted of war offences. All the above accused could have been put to death had the courts and reviewing officer desired the death sentence to be imposed. However, these sentences are purely deterrent and do not involve anything of a penal nature.

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As pardon is not a function of the Review Board, and as the removal of the deterrent factor becomes in effect full pardon, it is recommended that these cases be referred to competent authority for action.

JAMES J. CARNES
Colonel, Infantry,
Chief of Review Board.

13

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL DIVISION

file
291A

AP/ru.
17 January 1947.

AC/4002/L.

SUBJECT : Letter in the case of POSTULON
Domenico.

TO : Ministry of Pardon and Justice
(Attn. Dr. ROMILLI).

1. With reference to your personal note dated
15 January 1947 and further to the morning's telephone conversation
between Dr. LISO and Sig. PISAPIA in regard to the above mentioned
letter which was presumably lost in transit, herewith enclosed copy
of this division's reply to your AC/4002-L of 4 January 1947 as
requested.

JOHN K. WHITE,
Colonel, Infantry,
Chief Legal Advisor.

131



Ministero di Grazia e Giustizia

GABINETTO DEL MINISTRO

15-1-47

289A

Illustre Colonnello Weber, è seguito
di quanto deciso in data 6 corrente
relativamente a Fortiglione Domenico,
di cui alla mia lettera uc/4344-3 del
4 gennaio 47, la pregherei di voler
inviare una risposta scritta per poter

13.

definire la pratica.
Voglia gradire molti saluti
Giorgio Bonelli

HEADQUARTERS ALLIED COMMISSION
APO 734
LEGAL DIVISION

FILE
288A

AF/na
10 January 1947.

AC/4002/D

SUBJECT : POSTIGLIONE, Domenico.

TO : Ministry of Pardon and Justice.

1. See your letter of 4 January 1947.
No UC/4344-3.

2. Sentences imposed by Allied Military Government Courts have been reviewed for the purpose of fixing the maximum term to be served by prisoners convicted by such courts.

3. If a prisoner escapes, upon re-capture he should serve out the unserved portion of his sentence as modified on review.

4. In this connection, in the review of cases, it has been found that prisoners have been released thru illegal means. Nevertheless, and knowing of such fact, the sentences are being reviewed and in many cases reduced. If and when these prisoners are returned, they should be caused to serve out the portion of the sentence remaining as reflected by the review.

5. Nothing said herein should be taken as an excuse for not returning such prisoners to jail. A prisoner should serve out his sentence, even when he has been released in good faith. Where he has been released thru fraud, he should be prosecuted for his offence against the dignity of the Italian State as well. Unfortunately there are several instances where such releases have been obtained thru fraud, and the prisoners have not been returned to jail nor prosecuted for their

- 2 -

fraud. It is our opinion that such cases should be pressed for action, as the prestige of law may suffer.

6. The construction here given is to be applied as a matter of policy in cases similar to the POSTHUMOUS DOMINICAN CASE.

7. Please acknowledge receipt of this letter.

JOHN E. WEBER,
Colonel, Infantry,
Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB COMMISSION

287A

JKW/nb

18 October 1946

AC/1002/L

SUBJECT : Allied Legislation in Italy.

TO : The Ministry of Foreign Affairs.

1. See your Memorandum of 14 September 1946, 6/3109/1215.

2. A search is being made in order to determine whether the data requested can be furnished. We will advise you later.

FILE

JOHN K. WEBER,
Colonel, Infantry,
Chief Legal Advisor.

4002

File Legal $\frac{S}{C}$

↓.

E.C.
Sir.

Attached passed to you
for info by DCLA.

DCHO.

[Signature] 20/6

A comprehensive directive seems necessary
Sundry & personal visit by Easter Wld clergy
B & C Attendees *[Signature]* 20/6

4092
 Headquarters
 Lombardia Region Liaison Group
 Allied Commission
 Apo 794

Office of the Chief Liaison Officer

18 June 1946

Lomb/CLG/25

Subject: Prison sentences and A.M.G. legal procedure

To : Hq. Allied Commission
 Executive Commissioner
 Rome

I. The Procuratori del Regno of this Region do not appear to be conversant with instructions of how to deal with various legal matters that had arisen through the hand over of A.M.G. to Italian Authorities.

2. I asked the P.S.O. to submit concrete cases to me, these I am forwarding with his report.

3. Please may definite instructions be forwarded to all Procuratori Generali to clarify the position, as far as A.M.G. sentences and A.M.G. legal procedure are concerned; or could an A.C. legal Officer visit all Procuratori del Regno and clear all outstanding cases before the Liaison Group closes down.

A.H. Gardner
 Lt. Colonel R.A.
 Chief Liaison Officer

Encl. 1 LEGAL SUB-COMMISSION

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A.H. Gardner

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Lt. Colonel R.A.
Chief Liaison Officer

Encl. 1 LEGAL SUB-COMMISSION

Chief Counsel

Section

CLERKS

20 June 46

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HEADQUARTERS LOMBARDIA REGION LIAISON GROUP ALLIED COMMISSION

PS/37

APO 394

Public Safety Liaison Office
Phone 12641 ext. 2058

17th June 1946.

SUBJECT : Legal.

TO : Chief Liaison Officer, Lombardis.

1. Various difficulties regarding Prison Sentences and AMG Legal procedure have been brought to the notice of this division. As these matters are for the most part queries that are likely to occur in all Provinces, it is felt that they should be cleared up through Italian/Allied Commission channels before the Liaison Group closes down.
2. The following are examples of some of the difficulties encountered:
 - (a) BAIL - Prisoners released on bail in 1945 and tried by Italian Courts in 1946, have failed to have their bail refunded in cases of acquittal, through Italian Channels. See also appendix B to which no reply has as yet been received.
 - (b) APPEALS - Persons appealing against AMG Court Sentences through Italian Channels have received no reply and have applied to this office for information.
 - (c) PRISON RECORDS/PROSECUTOR GENERAL'S RECORDS - Cases have come to light where records do not agree in the cases of persons arrested for crimes against Allied Proclamations in 1945 or for crimes against Allied Forces in 1946 and handed over to Italian Judicial Authorities for trial. See Appendix A. The Procuratore Generale Milan after making enquiries into this case on receipt of our letter, released Sacchini as there were no charges against him either at Monza or Milan.
 - (d) USE OF TERM "COMANDO ALLEATO" - A man has recently been acquitted by Italian Authorities of the charge of stealing a bicycle. This office has however been instructed that the man has now passed to the disposition of the "Comando Alleato" because he escaped from a concentration camp at Potenza. Neither the FSS or HQ Allied Commission Security Division have this man on their records although both are making enquiries. In the meantime the man remains in prison because we are unaware of the identity of this mystery "Comando Alleato".
 - (e) Two provinces have asked for copies of decisions arrived at by Allied Military Courts in order that the records of the prisoner may be kept up to date.
 - (f) Several cases of POWs being in Civilian Prisons have been discovered and remedied by FSS who are continuing this search but it is considered that some precise instructions on this question should be given to the Italian Judicial Authorities as this office can only investigate cases that come

HEADQUARTERS
LOMBARDIA REGION LIAISON GROUP
ALLIED COMMISSION

APO 394

- 2 -

to light and it is thought that there must be several more cases of this sort still outstanding.

J.B. Forster

J.B. FORSTER, Capt.
Public Safety
Liaison Officer.

encls.

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A INDEX "A"

COPY

Public Safety Liaison Office
 Palazzo Montecentini
 Via Albarella, 20 - Milan
 Phone 12641 ext. 2058.

17 April 1946.

PS/37.

SUBJECT : Zucchini Pietro, in Ottavio.

TO : Procuratore del Regno, Milan

1. The son of Zucchini Pietro who is at present detained in S. Vittore Prison, Milan, has called at this Office to ask information about his father whom he is under the impression is held at the Allied Disposition.

2. The Commissariato di P.S. di Monza states that Zucchini was arrested last year for illegal possession of a pistol and is still held in S. Vittore Prison, Milan at the disposition of the Allied Police, whereas the Director of S. Vittore Prison assures me that Zucchini is at your disposition.

3. It appears that this man has not even been interrogated as yet and therefore his family has not been permitted to even visit him in prison.

4. On the return of Lombardia Region to Italian administration a letter was sent from AMG stating:-

- a) As from the 31 st of December 1945, the AMG Milan City, Prosecutor's Office ceases to function.
- b) The Allied Military Police have been informed to send all arrest reports to the Procuratore del Regno, Milan, Palace of Justice. Thereafter all prisoners will be at the disposition of the Italian judicial authorities.
- c) From the 1st of January 1946, all prisoners, other than those detained for security reasons, will be at the disposition of the a/m Italian judicial authorities.

5. I should be pleased if you will enquire into this particular case because if he is not charged under Italian law or held at the disposal of the CIC or PSS, he should not be considered at the disposal of Allied Police and therefore, should be released.

6. I should be pleased if you would inform us as to what the position is

2. The Commissariato di P.S. di Monza states that Zaccchini was arrested last year for illegal possession of a pistol and is still held in S. Vittore Prison, Milan at the disposition of the Allied Police, whereas the Director of S. Vittore Prison assures me that Zaccchini is at your disposition.

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- c) From the 1st of January 1946, all prisoners, other than those detained for security reasons, will be at the disposition of the a/m Italian judicial authorities.

5. I should be pleased if you will enquire into this particular case because if he is not charged under Italian law or held at the disposal of the CIC or PMS, he should not be considered at the disposal of Allied Police and therefore, should be released.

6. I should be pleased if you would inform me as to what the position is regarding this man.

For the Chief Liaison Officer,

J. E. FORSTER, Supt.
Public Safety
Liaison Officer.

Translation attached.

COPY

APPENDIX "B"

Pg/57.

Public Safety Liaison Office
Montecitorio Building
Via Alberta, 20, Milan
Phone 12641 ext. 2058.

3rd June 1946.

SUBJECT : Gabuzzi Renzo.

TO : Hq. Allied Commission,
Legal Sub-Commission

1. Gabuzzi Renzo was sentenced to a years imprisonment plus a fine of 50,000 Lire of a further 50 days imprisonment by AMG Superior Court in Milan on 24 August 1945 for illegal possession of Military property (WD German petrol).

2. On arrest he was released on bail of 50,000 Lire and given the authorized AMG receipt.

3. Mrs. Gabuzzi had her handbag stolen in which she had the receipt for the fine.

4. Attached is a copy of a declaration from the CC. GR. clerk that was attached to the AMG Court in Milan certifying that the fine was paid 8 Sept. 1945.

5. On 18 Dec. 1945 Mrs. Gabuzzi appealed for a remission of part of the sentence but has received no reply but in the meantime she has ascertained that her husband's prison records do not show that this fine has in fact been paid.

6. The Pretore will not accept this declaration and request the records without the official AMG receipt for the fine or with written instructions from Allied authorities.

7. From your records, is it possible to issue the necessary instructions to the Pretore to amend Gabuzzi's records or is it possible

1. fine of 50,000 lire or a further 50 days imprisonment by the Superior Court in Milan on 24 August 1945 for illegal possession of military property (and German patrol).

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6. The Pretore will not accept this declaration and amend the records without the official AMG receipt for the fine or with written instructions from Allied Authorities.

7. From your records, is it possible to issue the necessary instructions to the Pretore to amend Gabuzzi's records or is it possible to issue a duplicate receipt to prove that the fine has in fact been paid?
k.k.

8. The only cash records available here to the Italian Authorities appear to be a sort of register cash book which is not considered official.

For the Chief Liaison Officer.

J. B. FORSTER, Capt.
Public Safety
Liaison Officer.

File

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB COMMISSION

285A

AC/4002/L

JKW/ns
15 June 1946

SUBJECT : Trial of surrendered enemy personnel.
by AMG Courts

TO : Provincial Commissioner, UDINE
(Attn: Senior Legal Officer)

1. See your letter SLO/HQ AC/JUN 4 of
10 June 1946.

2. There is enclosed a copy of Section C,
which is applicable to the cases at hand.

3. It must not be understood that in
giving the authority to proceed to trial in the cases
in question that any effort was made to pass on their
merits. That, as always, is for the Court to determine.

4. Lt. Colonel Hannaford and the writer
will be in Trieste and Udine at the end of the month.
At that time oral supplement can be made to what has
been written.

By command of Rear Admiral STONE:

JOHN K. WEBER,
Colonel, Infantry,
Chief Legal Advisor.

Incls.

121

following
Cases Involving/offences committed in Italy
may be tried in Allied Military Government Courts :

- (1) Murder or attempted murder
- (2) Rape
- (3) Robbery with violence or robbery with aggravation
- (4) Serious offences against Allied personnel or property
- (5) Any other case of a serious nature which in the opinion of the Brigade, Area or Sub-Area Commander should be so tried. Such offences will be charged under Italian law, or during the continuance of Military Government, under the proclamations, as may be applicable.

f. The following powers of supervision and control may be exercised by the British Officer responsible for the administration of the unit:

- (1) To supervise the exercise of the summary powers granted by paragraph 2 above, to attend, or appoint an officer to attend the hearing of any case and to modify any decision made in exercise of these powers.
- (2) To order a German commanding officer to deal summarily with any case in which it is not desirable to proceed in accordance with paragraphs a(4) or (5) above.
- (3) To withhold from any member of the surrendered enemy forces for such time be considered desirable any benefit or privilege which might otherwise have been granted.

g. Where the officer responsible for administration of the unit in Italy considers that a case requires trial by an Allied Military Government Court, he will report the facts to the Brigade, Area or Sub-Area Commander who will if he decides that such trial is required apply direct to Hq Allied Commission with a full statement of the facts. Headquarters, Allied Commission unless it is of opinion that upon the facts a trial should NOT be held, will convene the necessary court. Such court will proceed in accordance with the procedure laid down in consolidated instructions for Allied Military Courts, copies of which will be supplied to Commanders concerned.

RESTRICTED

RESTRICTED

h. The Brigade Area or Sub Area Commander concerned will be required to render all assistance requested by Headquarters Allied Commission. This will normally include the detailing of all members of the Court (other than the president) the prosecuting and defending officers, all arrangements for provision of accommodation and court orderlies and arrangements of attendance of witnesses.

i. In the case of units employed in AUSTRIA British Commander in Chief and High Commissioner for AUSTRIA will issue separate instructions on the lines of paragraphs e,g, and h.

j. The principles of discipline set out above will be made known to all German personnel of units and it will be impressed upon them that if it is found necessary to change their status to that of PW, they will be on the last priority for eventual release and return to their homes.

4002
file

284A

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
UDINE PROVINCE
Tel. Udine 1516
Ext. 16

10 June 1946.

TO : Chief Legal Adviser,
Legal Sub-Commission HQ, AC,
ROME.

SUBJECT : Trial of Surrendered Enemy Personnel
by A.M.G. Courts.

FINE No : SLO/HQ AC/JUN/4. 283A

1. Ref your AC/4002/L of 4 June 46, I should be greatly obliged if a copy of the relevant portion of the instruction issued by Field Marshal Alexander could be forwarded.

I am under the impression that the Instruction merely states that in certain cases Surrendered Enemy Personnel may be tried by A.M.G. Courts if the approval of Headquarters, Allied Commission is first obtained; my letter of 29 May was intended to furnish sufficient information upon which the Chief Legal Adviser could decide whether in the circumstances under consideration approval for trial by A.M.G. Courts could properly be given. It appeared to me that when the request for trial was forwarded by HQ, A.G.R.A., adequate material for deciding the question was not submitted.

2. It will be greatly appreciated if the points raised in my letter of the 29th May 46 could be dealt with.

By order of the Provincial Commissioner:

C. L. P. GILSHENAN Major,
Senior Legal Officer,
Udine Province.

Chief Counsel

CJO

Italian Section

Q. RKS

13 June 46

HEADQUARTERS ALLIED COMMISSION
APO 734
LEGAL SUB-COMMISSION

2834

AC/4002/L.

/ada. /

4 June 1946.

SUBJECT : Trial of Surrendered Enemy Personnel
by A.M.G. Courts.

TO : Headquarters A.M.G., UDINE Province
(Attn: Senior Legal Officer).

1. See your letter SLD/HA AC/May 16 of 29 May 1946.
2. The status of "Surrendered Enemy Troops" and the trial of such offenders by A.M.G. Courts has been foreclosed by Allied Force Headquarters with the issuance on 3 August 1945 by Field Marshal Alexander of "Organization and Administration of German Service Units under British Control in Italy and Austria."
3. We have but one copy of such document. If you cannot otherwise inspect a copy, we will type the pertinent portion relating to A.M.G. Court trials and send it to you.

By Command of Rear Admiral STONE :

JOHN E. WEBER,
Colonel, Infantry,
Chief Legal Advisor.

4007 ✓

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
UDINE PROVINCE
Tel. Udine 1516
Ext. 16

289A

29 May 1946.

TO : Chief Legal Adviser,
Legal Sub-Commission H.Q., A.C.,

SUBJECT: Trial of Surrendered Enemy Personnel by A.M.G. Courts.

FILE No: SIO/HQ AC/MAY/16.

1. H.Q. 1. AGRA have sent me copies of their telegram to you on 15 May 1946 requesting you to authorize trial of the above personnel by AMG courts and your reply giving the authority requested. No direct authority from you to this HQ has been received.

2. The telegram from HQ 1 AGRA furnished very slight information about the personnel concerned and I think it advisable to mention certain points to which I should have deemed it necessary to draw your attention had the application been submitted through this HQ.

A) The personnel in question probably formed part of the large body of German troops not actually captured in battle who laid down their arms at the time of the surrender in Italy, and, pending disposal by the Allied Command, were for numerous reasons designated "surrendered enemy personnel".

B) Since the date of the surrender however they have come and now are under the direct custody and control of the Allied Forces and have been formed into a Unit known as the 777 German 'B' Vehicles Driving Team. They are confined in a camp and are subject to military discipline. It would appear therefore that - however they may be designated

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B) Since the date of the surrender however they have come and now are under the direct custody and control of the Allied Forces and have been formed into a Unit known as the 777 German 'B' Vehicles Driving Team. They are confined in a camp and are subject to military discipline. It would appear therefore that - however they may be designated for administrative purposes - they are at the present time prisoners of war or persons having the rights of prisoners of war under the Geneva Convention.

C) The Convention provides that sentence may be pronounced against a prisoner of war only in the same Courts and according to the same procedure as in the case of persons belonging to the armed forces of the detaining Power. Under the Proclamation of the Allied Military Government which constitutes them, Allied Military Courts have no jurisdiction over Allied Military personnel and, it follows, no jurisdiction over prisoners of war.

D) The Geneva Convention further provides that Orders, Proclamations, etc., must be communicated to prisoners of war in a language which they understand. No

- 2 -

proclamations or orders have been published in German in this Province and it seems clear therefore that prisoners of war cannot be tried for offences against the Proclamations.

E) The prisoners it is desired to try have not forfeited their military status.

F) No question of war crime is involved.

For the above reasons it seems to me that in the existing circumstances the prisoners in question cannot be brought within the jurisdiction of the AMG Court for trial on charges of stealing W.D. property. A request has already been received from O.C. 1 AGRA for ~~the~~ trial by an AMG Court and I shall therefore be glad if this letter may be treated as of immediate urgency and a decision given at the earliest possible moment.

By order of the Provincial Commissioner:


C.L.P. GILSHENAN Major,
Senior Legal Officer,
Udine Province.

By order of the Provincial Commissioner:

C. L. P. Gilshenan
 C.L.P. GILSHENAN Major,
 Senior Legal Officer,
 Udine Province.

115

OFFICIAL SUBCOMMITTEE	
CIO	
USCIO	
Chief Counsel	
→ CIO	
Station Section	
CL RKS	
3 Jun 46	

4002
I, M. CARR, Brigadier, C.B.I., M.C., by virtue of the powers conferred upon me by the General Officer Commanding the Allied Forces in Italy and Military Governor, Messby and on behalf of the Military Governor appoint Major Frank L. VECCHIOLA to be President, Col. James J. CANNES and Major J.D. REAKES as members of a General Military Court for the trial of all persons who may be brought before it in Naples.

Dated this 7th day of March 1946.

M Carr Brigadier

M. CARR,
Brigadier,
VI Ca Sec.

44002 ✓ *File*

HEADQUARTERS
LIVORNO ZONE
ALLIED MILITARY GOVERNMENT

280A

10 December 1945.

File: Liv.
Subject: A.M.G. Courts Livorno Zone.
To: Headquarters,
Allied Commission,
APO 394, U.S. Army.
(Attn: Legal Sub-Commission.)

1. Enclosed, copy of our letter to Provost Marshal, F.P.S.
2. Submitted for your information.

→ CIO
SUB COMMISSION
gms
Chief Counsel
CIO
Italian Section
CL RKS
STANLEY BEATTY,
Capt., Spec. Res.,
Acting Commissioner,
Livorno Zone A.M.G.

175

HEADQUARTERS
LIVORNO ZONE
ALLIED MILITARY GOVERNMENT

File: Liv/

10 DECEMBER 1945

Subject: A.M.G. COURTS LIVORNO ZONE.

To: HEADQUARTERS, P.D.S.
OFFICE OF THE PROVOST MARSHAL

1. UNDER VERBAL AUTHORITY GIVEN BY COLONEL J.K. WEBER, DIRECTOR LEGAL SECTION, ALLIED COMMISSION HEADQUARTERS, THE ALLIED MILITARY GOVERNMENT COURT FOR LIVORNO ZONE WILL BE RE-ESTABLISHED, EFFECTIVE 10 DECEMBER, 1945.

2. THE FOLLOWING TYPE CASES WILL BE TRIED IN THE ALLIED MILITARY GOVERNMENT COURT OF LIVORNO ZONE:

- (A) ASSAULT AGAINST MEMBERS OF THE ALLIED FORCES.
- (B) FORGERY AND COUNTERFEITING OF ALLIED MILITARY CURRENCY.
- (C) FORGERY, FALSIFYING OR THE ALTERING OF OFFICIAL DOCUMENTS OF THE ALLIED FORCES.
- (D) IMPERSONATION OF A MEMBER OF THE ALLIED FORCES.
- (E) BREAKING OR ENTERING WAREHOUSES, DUMPS, DEPOSITS OR OTHER PLACES WHERE ALLIED FORCES PROPERTY IS STORED, WITH INTENT TO BURGLARIZE OR STEAL.
- (F) THEFT OF ALLIED FORCES PROPERTY.
- (G) UNLAWFUL POSSESSION OF ALLIED FORCES PROPERTY.
- (H) ARSON OF ACTS OF VANDALISM AGAINST PROPERTY OCCUPIED BY ALLIED FORCES.

3. ALL OTHER CATEGORIES, SUCH AS: TRAFFIC VIOLATIONS, ENTERING A PROHIBITED AREA WITHOUT A PERMIT, PROSTITUTION, ILLEGAL SALE OF LIQUORS, PERMITTING TROOPS TO ENTER A PLACE POSTED "OUT OF BOUNDS", AND OTHER MINOR TYPE VIOLATIONS, WILL BE TRIED IN THE ITALIAN COURTS.

4. THE LEGAL SECTION, ALLIED MILITARY GOVERNMENT, LIVORNO ZONE, WILL RECEIVE ALL REPORTS FROM MILITARY POLICE, CARABINIERI, QUESTURA, P.S. AGENTS OR ANY OTHER LAW ENFORCEMENT AGENCY AND PREPARE CASES FOR TRIAL WHERE ARRESTS HAVE BEEN MADE FOR OFFENCES AS SET OUT IN PARA. 2 ABOVE. ALL OTHER CASES FALLING IN THE CATEGORY AS DESCRIBED IN PARA. 3 ABOVE WILL BE SUBMITTED TO THE QUESTURA FOR THE NECESSARY PREPARATION FOR TRIAL IN THE ITALIAN COURTS.

5. ALL EVIDENCE, SEIZED BY LAW ENFORCEMENT AGENCIES, WILL BE MARKED FOR IDENTIFICATION AND HELD IN THE STORE ROOMS AT VIA ROMA NO. 13, UNTIL FINAL DISPOSITION IS MADE OF THE CASE AND A COURT ORDER IS GIVEN FOR FINAL DISPOSITION OF THE GOODS OR OTHER ARTICLES.

6. THE JUDGE ADVOCATE GENERAL P.D.S. HAS AGREED TO ASSIGN A QUALIFIED MEMBER OF HIS STAFF TO SIT AS TRIAL JUDGE OF THE ALLIED MILITARY GOVERNMENT COURT OF LIVORNO ZONE.

- 2 -

7. COURT SITTING WILL BE HELD IN LIVORNO CITY AND PISA CITY AT THE PLEASURE OF THE TRIAL JUDGE.

8. THE PROVOST MARSHAL, P.B.S., MAY, IF HE WISHES, APPOINT A MEMBER OF HIS STAFF TO ASSIST IN THE PROSECUTION AND PRESENTATION OF EVIDENCE BEFORE THE ALLIED MILITARY GOVERNMENT COURT, OF THOSE CASES WHERE ARRESTS WERE MADE BY MEMBERS OF THE MILITARY POLICE, C.I.D., OR OTHER ALLIED MILITARY PERSONNEL.

Stanley Beatty

STANLEY BEATTY
CAPT., SPEC. RES.,
ACTING COMMISSIONER,
LIVORNO ZONE AND

DISTRIBUTION:

- 1 - J.A.G., P.B.S.
- ✓ 1 - LEGAL SUB-COMMISSION, A.C.
- 1 - PUBLIC SAFETY SUB-COMMISSION, A.C.
- 1 - SS TOWN MAJOR, LIVORNO.
- 1 - LEGAL OFFICE, LIVORNO ZONE.
- 1 - FILE, PUBLIC SAFETY.
- 1 - FILE, COMMISSIONER.

111

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/3002/L.

26
279A
FB/rm.
4 December 1945.

SUBJECT : Sentences of Allied Military Courts.
TO : The Minister of Pardon and Justice.

In connection with the eventual restoration of the Military Government territory to the Italian Government this Sub-Commission wishes to point out that all sentences rendered or to be rendered by Allied Military Courts in Italy will remain within the exclusive control of Allied authorities as provided by Art. 3 of R.M. 11 February 1944 No. 31 and Art. 2 of R.M. 20 July 1944 No. 162. It is not proposed to modify the present procedure for revision of such sentences or for adjudication of petitions for pardon and conditional liberty in respect of such sentences agreed with your Ministry in Salerno (vide circular of Dir. Gen. Aff. Pen. Prot. No. 26013 of 24 April 1944) and confirmed in Rome (Lester Uff. Colleg. 7156/268, 3 Oct. 1944 of 3 Oct. 1944).

G.O. HANNAFORD,
Lt. Col.,
Deputy Chief Legal Advisor.

Copy to : Executive Commissioner
for information.

Copy to : Executive Commissioner
for information.
Sent to : [illegible]
by Col. [illegible] 4/12/45

278A

HEAD OFFICE ALLIED COMMISSION
 APC 34
 AGA - SUBCOMMISSION

AC/4002/1

Action no 4091/1

28/ra.
28 September 1945.

SUBJECT : Release of prisoners.

TO : The Minister of Grace and Justice.

1. Two cases have recently been brought to the notice of this Commission of attempts made in Italian Government territory to secure the release of prisoners held in jails by the use of forged release orders purporting to be signed by Allied Officers, these forgeries were so expert that they were detected only by accident.

2. In order to prevent unauthorized persons from effecting releases from Italian prisons of prisoners who are at the disposition of the Allies it is requested that you inform the Directors of all prisons and jails and others responsible for custody of prisoners in territory that has been turned back to the Italian Government that no prisoner who is at the disposition of the Allies will be released before the expiration of his sentence except upon orders from the office of the Minister of Grace and Justice, upon receipt of communication from this Sub-Commission stating its decision or action in such case.

3. This practice will apply only to the territory that has been turned back to the Italian Government.

4. It will be the policy of the Legal Sub-Commission to communicate to the Minister of Grace and Justice the action of the Sub-Commission in altering the sentence of any prisoner held at the disposition of the Allies in territory that has been returned to the Italian Government, or in denying the petition of any such prisoner.

Copy to : File AG/4003/1/L.
 Public Safety -/C.

JOHN R. WEBER,
 Colonel, Infantry,
 Chief Judicial Officer.

103

HEAD QUARTERS ALLIED COMMISSION
- 314
LEGAL SUBCOMMISSION

24/7A

AC/4002/L.

JL/rm.
4 October 1945.

SUBJECT : Petitions.

TO : The Minister of Pardon and Justice.

1. Reference your letter AC/4713 of 28 July 45.
that
2. This Commission requests persons who may fall sick be dealt with in accordance to policy set forth in our letter AC/4002/L of 3 April 45. A copy is enclosed for your convenience.
3. Since Art. 147 No. 2 of OI and Art. 589 of GPP deals with postponement of execution of sentence, and impliedly, possibly the total suspension of sentence, it is requested that those cases which the Minister of Pardon and Justice feels should be dealt with by articles 147 No. 2 OI and Art. 589 of GPP be referred to this office for final disposition, with such observations which he chooses to make.

A. F. HARRIS,
Major,
Chief Counsel,
for Chief Legal Advisor.

Copy to : AC/4085/23/L.

108

276A

HEADQUARTERS ALLIED COMMISSION
ART. 594
LEGAL SUB-COMMISSION

LC/4002/L

2 June 1945

SUBJECT : Recording payment of fines on Records

TO : Regional Commissioners, (Attn: Regional Legal Officers),
TOSCANA, EMILIA, LIGURIA, FLORENCE, ROMAGNOLA and
VENETIAN Regions.
Provincial Commissioners (Attn: Provincial Legal Officers),
ANCONA and MARCHE Communes.
C.I.A.Us LAMPEDUSA and PANTELLERIA

1. Attention is drawn to the necessity of making endorsements on records when fines are paid, as directed by Consolidated Instructions, Article 29. See also Article 26 (2) c and the notes thereto. Similarly if a fine is not paid by the due date an appropriate endorsement should be made.

2. This is particularly important when a term of imprisonment is imposed in addition to a fine, for which a period of time has been allowed for payment. In such cases, in addition to endorsing the record, the prison authority where the accused is detained should be notified of the payment or fact of non-payment, as the case may be.

3. Failure to make an appropriate endorsement on the record entails that if this Sub-Commission is asked by the Italian authorities, perhaps 13-18 months later, to state whether payment has been made it is unable to do so, and as no absolute proof of non-payment can be obtained from the Finance Sub-Commission the default sentence has to be waived.

By command of Rear Admiral STONE :

W. E. BEFFENS,
Colonel,
Deputy Chief Legal Advisor.

107

S-E-C-R-E-T

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

WEB/mt.
25 May 1945.

AC/14002/L.

SUBJECT : Venezia Giulia - Jurisdiction of A.M. Courts.
TO : Regional Commissioner (Attn: Regional Legal Officer),
VENETIAN Region.

1. I have discussed with the Executive Commissioner the question of the wording of Proc. 1, Art. X (1) (a). He agrees that it is essential that persons who are not under the command of the S.A.C. must be subject to the jurisdiction of A.M. Courts.

2. At the same time he feels that it is undesirable to give undue publicity to the fact that we intend to try them. As a matter of law it has been ruled on similar occasions in the past that members of Allied Forces who were not under the operational command of the S.A.C. were subject to the jurisdiction of A.M. Courts and this ruling still holds. There is accordingly no need to amend the Proclamation.

3. It is however desirable that a clear and definite understanding should be reached between the Commanders concerned and Brig. IUSA stressed that the Yugoslav Commander should be specifically informed by the Commander 13 Corps that

(a) So far as concerned Yugoslav troops who were properly in Venezia Giulia and were under the command of S.A.C., these troops would be tried by Court Martial for any offence committed;

(b) So far as concerned all other Yugoslav personnel including persons who are or claim to be members of the Yugoslav Armed Forces these persons would be subject to the jurisdiction of the Allied Military Courts.

4. Brig. IUSA is notifying the 8 Army AGC to this effect, but no doubt you will ensure that any necessary action is in fact taken.

By command of Rear Admiral STONE:

H. E. BENTLEY,
Colonel,
Deputy Chief Legal Advisor.

Copy to: AC/14088/L.

S-E-C-R-E-T

106

4002 ✓

HEADQUARTERS
VENEZIE REGION
Allied Military Government
APO 394

1 (27HA)

19 May 1945

TO : Chief Legal Adviser, Legal Sub-Commission,
HQ, Allied Commission.

SUBJECT: Appointment of Reviewing Officers.

FILE NO: EXII/LE/Reg/B/68.

Herewith is sent for your information a copy of an appointment of Reviewing Officers in this Region by the Regional Commissioner.

W. R. Oates
Colonel, Major
for Regional Legal Officer,
AMG, Venezia Region.

LEGAL SUB-COMMISSION	
CLO	
DCLO	
Chief Counsel	
CLO	<i>Ima</i>
Italian Section	
CL RGS	
22 MAY 1945	

103

HGW/asy

274B

Legal Sub-Comm.

HEADQUARTERS
VENEZUELA REGION
Allied Military Government
APO 394

File No: RXII/025.(8)

18 May 1945

Appointment of Reviewing Officers

In pursuance of paragraph 4 of Article 32 of the Consolidated Instructions for Allied Military Courts, I hereby appoint the following officers as reviewing officers, with power to exercise on my behalf all powers of review vested in me as Regional Commissioner with regard to records of cases arising within Venezia Region:-

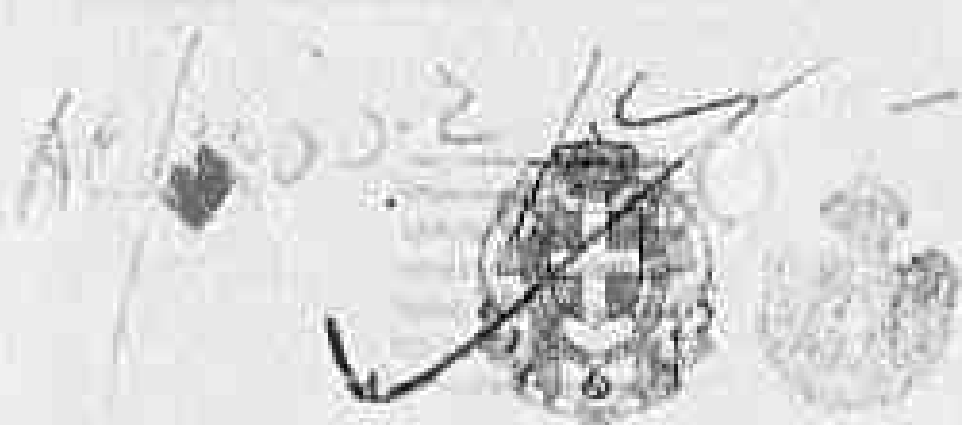
Colonel H. G. Willmer
Lt Col L. F. Dawson
Lt Col G. G. T. Ainslie
Major W. G. R. Cates.


Regional Commissioner

Distribution:

Above-mentioned officers
Legal Sub-Commission, HQ. A.C.
Regional Legal Officer.

10:



Ministero di Giustizia

DIREZIONE GENERALE
PER GLI ISTITUTI DI PREVENZIONE E PENNA

Ufficio

VI

Sett. V

134/39/2

Penna

3

73A
Mod. 955 M. 1

Ministero della Giustizia

Sottosegretario

Legale

ROMA

Risposta al f. 140.400 L.

del 10 aprile 1945.

OGGETTO Assistenza sanitaria dei condannati
della Corte Militare Italiana degli
interessati.

269A

In relazione alla lettera su indicata al con-
ferma il contenuto del 10 precedente note di que-
sto Ministero del 16 aprile n. 133590, precisando
che la dipendenza Direzione esecutiva sono
state evitate nel senso che anche i condannati
per sentenza della Corte Militare, in quanto am-
maliati, debbono nei casi di necessità e nei mo-
di regolamentari ricevere l'assistenza sanitaria
- dentro o fuori del carcere - con se si trat-
ta dei condannati della magistratura ordina-
ria italiana.

CLO

DLO

del Ministro

100

12 MAY 1945

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

272A
/nt.
5 May 1945.

AC/4002/1.

SUBJECT : Trial of German and Austrian Nationals.

TO : Regional Commissioner (Attn: Regional Legal Officer),
TOSCARA Region.

1. Reference your RVIII/19/7000 of 30 April 1945.
2. This Sub-Commission has no knowledge of such a directive. Presumably it was issued by AMG 8th Army who could, no doubt, supply you with a copy.

By command of Rear Admiral STONE:

W. R. DENHAMS,
Colonel,
Deputy Chief Legal Advisor.

102

4002
 HEADQUARTERS
 TOSCANA REGION
 ALLIED MILITARY GOVERNMENT

Date: 30 April 45

File Ref: R/III/19/7000

SUBJECT Trial of German and Austrian Nationals.

TO 'LEGAL SUB-COMMISSION, HEADQUARTERS AC.

1. Can you cite us to the directive upon which the attached letter was issued? We have not succeeded in locating the same, though it is our distinct impression that it is in existence.

For the Regional Commissioner:

John K. Weber
 JOHN K. WEBER,
 Colonel, Infantry
 Regional Legal Officer.

Sir, I know of no such directive. I have this morning looked through various appropriate files before Sept 1944 but can find no trace of such an instruction.

CO
 DELO

CHAS. [unclear]

CH

[unclear]

Q

101

5 MAY 1945

R-E-S-T-R-I-C-T-E-D

271B

COPY

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION IV, LEGAL DIVISION
A.P.O. 394

20 September 1944

L/1019

SUBJECT : German or Austrian Nationals.
Information for Protecting Power

TO : Provincial Legal Officer,
PROVINCE OF ROME

1. Under the provisions of a directive numbered 74 on the C.A.O.'s directive file, Headquarters A.M.G. Rear 8th Army, it will be necessary in all trials in Allied Military Courts when the accused is a German or Austrian National to record on the Record of Proceedings from 8 by adding after the accused's name in bold letters the words "GERMAN NATIONAL" or "AUSTRIAN NATIONAL".

2. Please see that this Directive is complied with in all case wherever the same is applicable.

ROBERT C. HENDRICKSON,
Major A.U.S.
Regional Legal Officer,

RCH/PA.

103

R-E-S-T-R-I-C-T-E-D

cc
HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

270A

24 April 1945.

AC/4002/L.

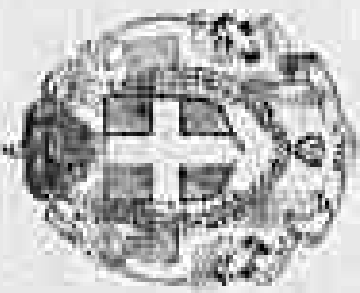
SUBJECT : Petitions.

TO : H. E. The Minister of Grace and Justice.

This Sub-Commission acknowledges receipt of Your Excellency's letter of 16 Apr 1945 enclosing copy of the circular letter (3052/1649) of 16 Apr 45 sent to the Directors of all Penal establishments. The contents of these letters have been duly noted.

W. E.

W. E. BIERENS,
Colonel,
Deputy Chief Legal Advisor.



4632
V

Ministero di Giustizia

DIREZIONE GENERALE
PER GLI ISTITUTI DI PREVENZIONE ED IPENA

Roma 15.4.1934
269A
1934

Ministero di Giustizia
DIREZIONE GENERALE
PER GLI ISTITUTI DI PREVENZIONE ED IPENA

VI

Ufficio
Int. N. 132500-2

Proposta n. 3454/1002/1

Oggetto: Divieto di lavoro in luoghi chiusi
della Corte Militare di Roma.

ALL. 1

See 263A

Con riferimento alla nota sopra citata si comunica copia della lettera-circolare, che questo Ministero in pari data invia a tutte le Direzioni degli stabilimenti di pena, relativamente ai ricoveri di condannati della Corte Militare in luoghi chiusi ad ore.

Ad ogni buon fine si ritiene opportuno trascrivere il testo dell'art. 107 del regolamento penitenziario del 1° marzo 1934 n. 777:

(Ore del detenuto. Permesso nelle infermerie e ricoveri in stabilimenti penali)

Il detenuto infermo o altro detenuto sottoposto a cura, essere o no, in infermeria, deve essere ammesso all'ospedale o alle altre strutture ospedaliere, può essere che il detenuto sia ricoverato in un altro stabilimento, con questo da stabilire.

Per proposte nuove, con questo da stabilire.

Ufficio

Prot. 772 13236-4

Riproduzione di 42/1002/1

Ad 3 con. 1002/1

Oggetto: Ricovero in luogo sicuro di cura del condannato

Giovanni Corvi Militari all'Arma.

Art. 1

See 263A

Con riferimento alle note sopra citate si comunica copia delle lettere-circolari, che questo Ministero in pari data invia e tutte le Direzioni degli stabilimenti di pena, relativamente al ricovero del condannato delle Corti Accente in luoghi esterni di cura.

Al fine di assicurare opportuno transito il di-
gnosco dell'art. 107 del regolamento Penitenziario del 15 marzo
1934 n. 787;

(Sono dei determinati. Passaggio nelle infermerie e ricovero
in stabilimenti esterni)

Il condannato infermi vengono curati nella loro cella, o nella
cella di visita, o in un'altra, avuto riguardo all'indole o alla gravità
della malattia, può provenire che il carcere sia ricoverato
nell'infermeria della stessa o di un altro stabilimento.

Non possono anche, nel caso di malattia grave che non pos-
sa essere curata senza pericolo nello stabilimento, in caso
di un luogo esterno di cura.

Il passaggio all'infermeria è disposto dal direttore.

Il ricovero nell'infermeria di un altro stabilimento avviene
in un pubblico ospedale o in una casa di cura, che oltre le neces-
sarie disposizioni di sicurezza, dev'essere autorizzato dal Minis-
tero, anche nei casi d'urgenza.

Se gli interessi il provvedimento di trasferimento in un
pubblico ospedale o in una casa di cura è dato con ordine sovra-
no del giudice istruttore durante l'istruzione formale, del mi-
nistero ministero durante l'istruzione sommaria, del presidente del

23 APR 1945

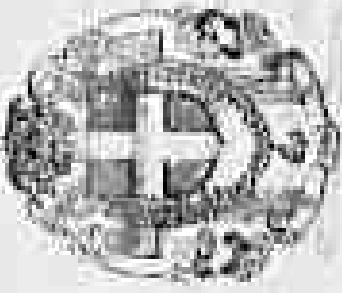
sante gli atti preliminari al giudizio o nel processo, o del processo nel procedimento per reati di sua competenza.

Appena è cessato il bisogno o sono cessate le esigenze di sicurezza il trasferimento è revocato dalla autorità competente.

Quando il detenuto è in pericolo di vita il medico deve intervenire al direttore e al capellano. Il direttore ne dà notizia ai parenti più prossimi che vivono in città o che comunque di loro non si sa, se possibile, anche se altre persone incidenti del detenuto. Trascurandosi di indagare, il direttore avverte anche l'autorità giudiziaria competente.

DEL MINISTERO

[Handwritten signature]



Ministero di Giustizia

DIREZIONE GENERALE
PER GLI ISTITUTI DI PREVENZIONE E DI PENA

VI

MEG BONG

Roma 16 Aprile 1945

Alle Direzioni per gli
stabilimenti di pena e alle
carceri giudiziarie del Regno

Oggetto : Ricovero in ospizi esterni di cura dei condannati
dalle Corti Alleate.

CIRCOLARE

Si ritiene necessario precisare che i condannati dalle Corti Alleate debbono considerarsi sottoposti, agli effetti dell'esecuzione, alla giurisdizione amministrativa di questo Ministero e alle norme del Regolamento penitenziario.

Pertanto ogni domanda o proposta presentata nell'intento di tale particolare categoria di condannati per ottenere il ricovero in ospizi esterni di cura, anche se già rivolta alla Commissione Alleata o ad altra autorità Alleata, dev'essere comunicata con le modalità consuete a questo Ministero, per la preventiva autorizzazione, nei termini e nei modi stabiliti dall'art. 107 del regolamento 18 marzo 1931 n. 787.

Rimane salva, nei casi di gravità eccezionale, la facoltà delle Direzioni di ordinare...

OGGETTO : Ricovero in ospizi esterni di cura dei condannati
dalle Corti Alleate.

CIRCOLARE

N. 3059/1649

Si ritiene necessario precisare che i condannati dalle Corti Alleate debbono considerarsi sottoposti, agli effetti dell'esecuzione, alla giurisdizione amministrativa di questo Ministero e alle norme del Regolamento Penitenziario.

Pertanto ogni domanda o proposta presentata nell'interezza di tale particolare categoria di condannati per ottenere il ricovero in ospizi esterni di cura, anche se già rivolta alla Commissione Alleata o ad altra Autorità Alleata, dev'essere comunicata con le modalità consuete a questo Ministero, per la preventiva autorizzazione, nei termini e nei modi stabiliti dall'art. 107 del regolamento 18 marzo 1931 n. 787.

Rimane salva, nei casi di gravità eccezionale, la facoltà delle Direzioni di ordinare l'immediato ricovero in ospedale, salvo ratifica.

Restano naturalmente di competenza delle Commissioni Alleate tutte le altre domande che i condannati eventualmente dovessero inoltrare in relazione alla condanna emessa dalle Corti Militari Alleate.

Pel MINISTRO

Nic. Auricchio

268A

HEADQUARTERS ALLIED COMMISSION
AFC 394
LEGAL SUB-COMMISSION

AG/4002/L.

20 April 1945.

SUBJECT : Italian Military Property.

TO : Regional Commissioner, TOSCANA Region.
(Attn. Regional Legal Officer)

1. Reference your RVIII/19/3008 of 17 April 1945.
Italian military property should not be treated as enemy military property, and failure to declare possession of Italian military property should not be held to be an offence under Proclamation 1, Art. V, Sec. 28.

2. Where a civilian is improperly in possession of Italian military property, he can be prosecuted under one or more of the following provisions of Italian law :-

- Art. 166 CPM. Acquisition or retention of military property.
- Art. 643 CP. Receiving.
- Art. 712 CP. Incautious acquisition.
- Art. 624 CP. Theft.

3. Such cases may, if necessary, and subject to the provisions of Consolidated Instructions, Article 14, be tried in AMG Courts or the accused may be referred to the appropriate Italian Court.

4. In all cases where an accused is found by an AMG Court to have been improperly in possession of Italian military property, the court should make an order that the property be restored to the Italian army authorities.

BY command of Rear Admiral STONE.

97

W. E. DEERENS.

W. E. DEERENS,
Colonel,
Deputy Chief Legal Advisor.

4002 ✓ file

267A

HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

File Ref: *Rsm/19/3008*

Date: 17 April 45

SUBJECT: Status of Italian Military Property.

TO : LEGAL SUB-COMMISSION, HEADQUARTERS AG.

1. I have before me for review a case wherein an accused is charged under Proclamation 1, Article V, Section 28, the particulars alleging in substance that the accused failed to declare in one month his possession of 'enemy' property, to wit a blanket of the Italian Military establishment.

2. What is the present status of Italian Military property? Where such property is not the substance of the offense, but is before the Court as an incident of the case, as, for example, it is picked up along with Allied property, how should the court deal with such property?

3. It is desired that the answer thereto be transmitted by us for the information and guidance of all legal officers in this Region.

For the Regional Commissioner:

John K. Weiner
JOHN K. WEINER,
Colonel, Infantry
Regional Legal Officer.

19 APR 1945
A. C.

LEGAL SUB-COMMISSION	
CLO	
→ DCLO	✓
Chief Counsel	
→ CL	✓ 95
Relief Section	
CL RKS	
20 APR 1945	

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

266A

AC/4002/L.

18 April 1945.

SUBJECT : Petitions.

TO : H.E. The Minister of Pardon and Justice.

With reference to this HQ letter AC/4002/L. of 5 April 1945 and subsequent telephone communication from Your Excellency's Ministry.

1. This Commission does not require to be informed of any action which Your Excellency's Ministry may take in accordance with para 5 (a) of that letter.

2. Petitions on the grounds of health which are addressed to this Commission or other Allied authorities must be considered here. If the Commission is assured that instructions as suggested have been issued by Your Excellency and that therefore there is no danger of an Italian subject failing to receive the care and attention to which he is entitled under Italian law merely because he is in prison on the order of an Allied Military Court, then it will be unnecessary, except in very rare cases, to take any action on such petitions. Otherwise, this Sub-Commission will be bound to forward all such petitions for investigation and report.

W. E. BEIRNIS,
Colonel,
Deputy Chief Legal Advisor.

6002

265A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4058/1/L.

/rlp.
9 April 1945.

SUBJECT : Record of cases tried in Naples Commune.

TO : Allied Military Government, Naples Commune (Attn: Senior Legal Officer).

1. As stated in AC/4058/1/L of 25 Mar 45, all cases tried by Allied Military Courts within Naples Commune will be referred to this Hq for review. Upon completion of review the record will be returned to your Hq for storage.

2. All Informal petitions which may be presented at your Hq will be scrutinized by you; those on which you consider that action may be required (on the basis explained in Consolidated Instructions, Article 33), you will forward to this sub-commission together with the record, if in your possession; all others you will return to the person by whom or on behalf of whom it was presented, with a note or endorsement stating that it is rejected.

By command of Rear Admiral STONE.

lc

W. R. BARNES,
Colonel,
Deputy Chief Legal Advisor.

Copy to: File AC/4083/1/L
AC/4002/L. ✓

file

4002
HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS DIVISION

264A

AC/4058/1/L.

/rlp.
25 March 1945.

SUBJECT: Naples Commune.

TO: Regional Commissioner, Southern Region.

1. On the withdrawal of officers from Southern Region, AGO will, as you are of course aware, continue in Naples Commune. For this purpose a staff of three legal officers is assigned to the Provincial team.
2. Some question has been raised as to the extent of the duties of these legal officers. For the purpose of clarification therefore, it is stated that they will perform the normal functions of Provincial legal officers in an AGO Province.
3. The Senior legal officer, Major P. L. Vecchiola, will be responsible, with the assistance of his associates, for rendering to the RC any legal advice which the RC may require.
4. AGO courts will continue to be held in the Commune for the trial of such offenses committed within the Commune as the RC considers desirable to refer to them. All cases so tried will be referred to legal sub-commission for review.
5. Contact with the Italian courts within the Commune will be maintained in the same way as in any normal AGO Province.
6. It is no part of the functions of the legal Division to endeavor to maintain contact with Italian courts situated outside the Commune of Naples. Indeed it would be contrary to the terms of the New Deal for them to do so.
7. It is to be expected that complaints will continue to be received from military authorities over the workings of these outside courts. These complaints will be referred to the legal sub-commission.

By command of Rear Admiral STONE:

Copy to: File AC/4002/L.

G. R. STONE, Brig.
V. CA Sec. Hq AG.

9

263A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AG/4002/L.

/IRB.
5 April 1945.SUBJECT : ~~Informal~~ Petitions.

TO : H.M., Minister of Pardon and Justice.

1. This Sub-Commission understands from Your Excellency's Ministry that persons in prison under a sentence of an Italian Court who may fall sick are dealt with in accordance with Article 137 of the Royal Decree of the 13th June 1931 No. 787 as explained by various circulars. kl

2. It is the policy of this Commission that persons who are still in prison in Italian Government Territory under an order of an Allied Military Court and who may fall sick should be dealt with in the same way.

3. It is therefore requested that Your Excellency will issue an instruction to all prison directors concerned and to the appropriate members of Your Excellency's Ministry informing them of that policy and instructing them to take action in such cases in all respects as if the sentence had been imposed by an Italian Court.

4. It has been the practice for persons convicted by Allied Military Courts to present petitions asking for release from prison on grounds of ill health. In the past, such petitions were presented and disposed of through Allied Commission channels, but with the withdrawal of Allied Commission personnel, it is thought that petitions will be presented either by post or through the channels of Your Excellency's Ministry.

5. With a view to establishing an orderly system of dealing with such petitions, the following suggestion is made:-

- (a) Any petition based solely on the grounds of ill health and addressed to Your Excellency's Ministry or to any other Italian authority (wherever presented) to be disposed of by Your Excellency in all respects as if the sentence had been imposed by an Italian Court.

See also files 266A

- 2 -

- (b) All such petitions addressed to this Commission or to any allied officer or authority to be disposed of by this Commission. As it is not the practice of this Commission to reduce a sentence on the grounds of ill health, ~~and~~ in normal cases this will involve no action provided that this Commission has Your Excellency's assurance that instructions have been issued in accordance with paras 2 and 3 above.

6. Your Excellency will appreciate that the above remarks apply only to petitions based solely on grounds of ill health. Any other petitions in regard to sentences of Allied Military Courts must be scrutinised at this HQ.

lc

W. E. REINHENS,
Colonel,
Deputy Chief Legal Adviser.

Copy to file
AC/4083/23/L

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AG/4083/23/L.

/lrb.
3 April 1945

SUBJECT : Confiscation of Goods by AMG Courts.

TO : Regional Commissioner, (Attn: Regional Legal Officer), Umbria-Marche Region.

1. In reply to your R5/511/14/AMC of 30 March 1945. It is to be noted that this HQ letter to which you refer does not apply to confiscation in all "black market" cases: but only to confiscation of vehicles. The statement that confiscation of a vehicle should only be ordered in "very exceptional cases" is intended to discourage the making of such confiscation orders except in those rare cases when the judge considers that justice cannot otherwise be achieved.

2. Article 27 of Consolidated Instructions provides that normally confiscation will not be ordered unless the wrongful use or possession of an article is the substance of, as opposed to incidental to, the charge. Such an order would therefore be "exceptional". In cases where the value of the article concerned is entirely disproportionate to any thing else in the case, including the jurisdiction of the court, such an order should be "very exceptional".

3. In cases where a person is charged with travelling without a permit, or buying or exporting goods without a permit, the use of the vehicle is incidental to the charge, since in most cases the actual offence would not be committed without the use of the vehicle. As a general rule, moreover, it is perfectly ample to impose an adequate punishment by fine or imprisonment or both without the necessity for the additional punishment of confiscation with all the disadvantages previously explained.

4. Cases do occur, however, where the normal punishment would not achieve the results desired by the court. Examples, which are not intended to be exhaustive, are:-

the repeated use of a vehicle for purposes of this nature;
the impracticability of sending the accused to prison;
the particular gravity of an individual offence;
the necessity for punishing the owner (as opposed to the driver) of the vehicle.

- 2 -

5. It should perhaps be added that a local shortage of transport is not a "very exceptional case" either for this, or any other purpose.

6. The last part of your letter, I think, must be based on a misreading of our letter: it does not prohibit confiscation by a summary court: on the contrary it states expressly:

"It is permissible for such an officer" (i.e. a non-legal summary court officer: and a fortiori, the same must apply to a legal officer) "to award a sentence within the jurisdiction of a summary court and to make an order of confiscation."

The above quoted passage is in accordance with Consolidated Instructions Article 27 (4) which provides that the power of forfeiture is additional to other powers but that officers sitting in Summary Courts will not make use of the power merely to impose a penalty which will, in fact, exceed 50,000 lire.

The two cases dealt with in this HQ letter of 13 March were both heard before a Summary Court in one case the court consisted of a legal officer and in the other of a non-legal officer. It is thought that both these courts used their power to order forfeiture in such a way as to impose a financial penalty which they could not, and probably would not, do by fine.

Nothing in that letter is intended to depart from the principle laid down in Consolidated Instructions Article 27: but cases where an article worth many millions of lire may be confiscated should be heard by a Superior Court.

By Command of Rear Admiral STONE:

Copy to file
AG/4002/L.

W. E. BEHRENS,
Colonel,
Deputy Chief Legal Adviser.

89

HEADQUARTERS ALLIED COMMISSION
APC 894
LEGAL SUB-COMMISSION

AG/4002/L.

/176.
20 March 1946.

SUBJECT : Informal Petitions.

TO : H.E. The Minister of Grace and Justice.

1. As your Excellency is, no doubt, aware a person convicted by an Allied Military Court has the right to present a petition for review within 30 days of conviction. At the expiration of this period every case, with any petition presented, is reviewed by the competent authority. No right exists to present any further petition.

2. In practice it has been found that persons convicted present innumerable petitions, the vast majority of which have no merit whatever.

3. In the past, these petitions were either disposed of at Regional HQ or forwarded by Regional HQ to this Sub-Commission.

4. It is anticipated that, with the withdrawal of the Allied Commission personnel from Italian Government territory, these petitions will be sent direct by the convicted person or by his family to this Sub-Commission - indeed, a few have already been received.

5. In future such petitions will be perused by this Sub-Commission. If no action is called for, no answer will be sent to the petitioner. If, however, in any particular case this Sub-Commission decides that some action is called for, it will be necessary for this Sub-Commission to request your Excellency to communicate the decision to the petitioner or the authority concerned through the channels of the Ministry, no other channels being available.

6. It is not thought that this will impose any substantial burden on your Excellency's Ministry as the number of cases of the latter class is very small.

88

W. E. Behrens

W. E. BEHRENS,
Colonel,
Deputy Chief Legal Adviser.

Copy to file 4083/23/L.
4061/L.

260A

SECRETHEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4040/L.

/rlp.
26 March 1945.

SUBJECT : Confessions.

TO : Regional Commissioners (Attn: Regional Legal Officers),
UMBRIA-MARCHE, TOSCANA, EMILIA, LIGURIA, PIEMONTE, LOMBARDIA and
VENEZIA Regions; SCAOs, 5th and 8th Army (Attn: Senior Legal
Officers).

1. In a recent spy trial evidence was given of confessions made by the accused during his investigation. The accused protested that the confessions had been forced out of him and were in several respects untrue. The court disbelieved, or attached no importance to these protestations which were, of course, denied by the officers who conducted the interrogations, convicted the accused and sentenced him to death.

2. After sentence he was again interviewed by CSDIC. CSDIC have forwarded to this sub-commission a full report on this interview. The following is a verbatim extract from part of this report: "Subject's earlier statements now shown to be fabrications produced as the result of harsh treatment. His present story which is accepted as truthful in all essentials, confirms a large amount of previous information...."

3. It is essential that courts should realize the extreme danger of convicting accused persons upon confessions which have been obtained, or which they have reason to believe have been obtained by force.

By command of Rear Admiral STONE:

W. E. EHRHENS,
Colonel,
Deputy Chief Legal Advisor.

Copy to: File AC/4002/L.

87

SECRET

HEADQUARTERS ALLIED COMMISSION

LPO 394

LEGAL SUB-COMMISSION

/rlp.

24 March 1945.

LC/4002/L.

SUBJECT : Allied Military Courts; suspension of sentences for enlistment in Italian Army.

TO : Regional Commissioner (Attn: Regional Legal Officer),
TOSCANA Region.

1. Reference your RVIII/19/3006 of the 1st March 1945.

2. I was approached by the Procuratore Generale Militare with a request that I should suspend sentences imposed by Allied Military Courts on condition that the persons involved should join the Italian Army.

3. I refused to grant any general suspension, but stated that in suitable cases I would be prepared to consider individual applications.

4. Of the petitions actually forwarded with your letter the majority appear to be serious cases in which it would be obviously improper to suspend any part of the sentence. In some other cases, the accused appear to be required by the Italian authorities to answer charges under Italian law. It would appear, therefore, that any suspension of sentences in these cases would be useless as the Italian authorities would require the immediate arrest and trial of the person released.

5. In some cases the sentence has already expired and there is nothing left to suspend. There does appear, however, to be at least one case which might be suitable for suspension - MORDINI Franco who received a three months' sentence which expires on the 30th of April. I have naturally not got the record in this case and I do not know whether you are prepared to suspend the balance of the sentence on the terms suggested. If, however, you are prepared to do so, you are authorized to take this course.

6. In the future, with any applications of this kind, will you please take the following action:-

a. If the case is one in which you consider that no possibility of suspension exists, either by reason of the seriousness of the charge or for some other reason, you may ignore the application.

85

3. I refused to grant any general suspension, but stated that in suitable cases I would be prepared to consider individual applications.

4. Of the petitions actually forwarded with your letter the majority appear to be serious cases in which it would be obviously improper to suspend any part of the sentence. In some other cases, the accused appear to be required by the Italian authorities to answer charges under Italian law. It would appear, therefore, that any suspension of sentences in these cases would be useless as the Italian authorities would require the immediate arrest and trial of the person released.

5. In some cases the sentence has already expired and there is nothing left to suspend. There does appear, however, to be at least one case which might be suitable for suspension - MORDINI Franco who received a three months' sentence which expires on the 30th of April. I have naturally not got the record in this case and I do not know whether you are prepared to suspend the balance of the sentence on the terms suggested. If, however, you are prepared to do so, you are authorized to take this course.

6. In the future, with any applications of this kind, will you please take *86* the following action:-

a. If the case is one in which you consider that no possibility of suspension exists, either by reason of the seriousness of the charge or for some other reason, you may ignore the application.

b. If you consider that the suspension might well be granted, will you please forward the application together with the record and your recommendation to this HQ for action here.

7. Petitions are returned herewith.

By command of Rear Admiral STONE:

Incls.

W. D. Bennett

W. D. BENNETT,
Colonel,
Deputy Chief Legal Advisor.

Copy to: HQs (Attn: RLOs), Abruzzi-Marche Region;
" " " Emilia
" " " Liguria
" " " Piemonte
" " " Lombardia
" " " Venezia

File AC/4083/23/L.

HEADQUARTERS ALLIED COMMISSION

APO 394

CIVIL AFFAIRS SECTION

IGHC /pa.
17 March 1945

AC/4002/L.

SUBJECT : Allied Military Courts : punishment of minors.

TO : Regional Commissioners (Attn: R.L.O.) Sicilia, Southern, Sardegna, Lazio-Umbria, Abruzzi-Marche, Toscana, Emilia, Liguria, Piemonte, Lombardia, Venezia and Venezia Giulia Regions,
SCAOs 5th and 8th Armies.

1. From cases reviewed at this HQ, it is thought that Legal Officers are uncertain as to the sentence which should be imposed on minors convicted by Allied Military Courts, having regard to the practical difficulties which now obtain.

2. In theory, every prison should have a wing for minors: and throughout the country there should be a series of "reformatore giudiziari" each serving a district. In practice, prisons are so congested that the wing for minors does not always exist: and for a variety of reasons some reformatories are not functioning.

3. The reformatories are intended as places where minors may be sent in lieu of, or in lieu of, prison (see Penal Code Arts. 223, 224 and 225) to discipline and instruction in some craft.

Today, owing to the lack of materials, it is not possible in reformatories to give this instruction: and a term in a reformatory is in practice not very different from a term in prison.

4. Every PLO should acquaint himself with the facilities for the detention of minors that exist in his province: this can best be done by asking the "Giudice di Sorveglianza". The Courts must then take a practical and realistic view and in each case must impose a sentence which is reasonable and practicable having regard to local conditions.

5. The following principles should be borne in mind:

a. In appropriate cases, a minor may be given a suspended sentence and put under the care of the parents. 05

b. In cases too serious for the above, a minor may be given a term of detention to be served in a reformatory: but in this case the term should be considered not as a period for reform and education but as a punitive term in a special place of detention for minors: 05

2. In theory, every prison should have a wing for minors: and throughout the country there should be a series of "Riformatori giudiziari" each serving a district. In practice, prisons are so congested that the wing for minors does not always exist: and for a variety of reasons some reformatories are not functioning.

3. The reformatories are intended as places where minors may be sent in lieu of, or in lieu of, prison (see Penal Code Arts. 223, 224 and 225) to discipline and instruction in some craft.

Today, owing to the lack of materials, it is not possible in reformatories to give this instruction: and a term in a reformatory is in practice not very different from a term in prison.

4. Every FIO should acquaint himself with the facilities for the detention of minors that exist in his province: this can best be done by asking the "Giudice di Sorveglianza". The Courts must then take a practical and realistic view and in each case must impose a sentence which is reasonable and practicable having regard to local conditions.

5. The following principles should be borne in mind:

a. In appropriate cases, a minor may be given a suspended sentence and put under the care of the parents.

b. In cases too serious for the above, a minor may be given a term of detention to be served in a reformatory: but in this case the term should be considered not as a period for reform and education but as a punitive term in a special place of detention for minors: it should be made correspondingly brief.

c. In yet more serious cases, a term of imprisonment must be imposed: but legal officers should ask Public Safety officers to ensure that such minors are segregated from other inmates.

6. With effect from receipt hereof, the practice of ordering minors to a reformatory for an indefinite term will cease. If a Court wishes to impose a term of detention on a minor it will specify:

a) whether the term is to be served in a reformatory or in a prison: and
b) the length of the term.

7. This directive is issued for distribution to all legal officers in your Region.

By command of Rear Admiral STONE:

Copy to: AC/4061/L.
AC/4082/1/L.

G. R. Vignati, Brig.
VP CA Sec, HQ AC.

257A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4002/L.

/rlp.
11 March 1945.

SUBJECT : Allied Military Courts - Corroboration of evidence of accomplice.

TO : Regional Commissioners (Attn: Regional Legal Officers),
SICILIA, SARDEGNA, SOUTHERN, LAZIO-UMBRIA, ABRUZZI-MARCHE, TOSCANA,
EMILIA, LIGURIA, PIEMONTE, LOMBARDIA, VENEZIA, and VENEZIA GIULIA
Regions, and SCAG AMG, 5th Army, SCAG AMG, 8th Army.

1. Para. 22 (3) (c) of the Consolidated Instructions, lays down that an accused may not be convicted on the evidence of an accomplice unless there is ample corroboration. From cases reviewed at this Hq it is clear that some officers are not clear what constitutes corroboration.

2. Corroboration consists of evidence, direct or circumstantial, which in some material respect confirms the evidence of the accomplice not only that the offence was committed but also that the accused committed it.

3. Attention is particularly drawn to the concluding words of the last paragraph. It is not sufficient that the independent evidence should go to show that the accused had the opportunity or a motive to commit the offence; it must confirm that the accused took part in the commission of the offence. The reason for this is obvious; any person wishing falsely to accuse an innocent person would naturally accuse somebody with such opportunity or motive; hence the necessity for independent evidence confirming that the accused committed the offence.

4. In connection with corroboration, attention is also drawn to the two following points:

a. The evidence of one accomplice cannot be corroborated by the evidence of another; and

b. Where two persons are being tried together, corroboration implicating one only is not corroboration as to the other.

5. Sufficient copies hereof are enclosed for distribution to all legal officers serving under you.

By command of Rear Admiral STONE:

W. E. Hehrens

W. E. HEHRENS,
Colonel,
Deputy Chief Legal Advisor.

Incls.

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HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

IGHC/eap

AG/4002/10/B

7 March 1945

SUBJECT : Construction of Rules of Procedure
for Allied Military Courts.

TO : Regional Commissioner (for Regional Legal Officer)
Sicilia, Southern, Lazio-Umbria, Abruzzi-Marche,
Toscana, Emilia, Piemonte, Liguria, Lombardia,
Venezia and Venezia Giulia Regions :
SCAO (for Senior Legal Officer) 5th Army

1. The attention of this HQ has been drawn to the fact that there is a conflict between Rule of Procedure 16 (which provides that an Allied Military Court may admit such evidence, including hearsay, as in its opinion is relevant and material) and Consolidated Instructions art. 22 1 (a) (which provides that an Allied Military Court shall admit such evidence).

2. The intention is accurately stated in the Rule of Procedure. The decision whether or not to admit as evidence any particular statement etc which would not be admissible under the law of Great Britain or the United States is one which must be left to the decision of the court in each particular case. Art 22 therefore will be treated as amended by substitution of the word "may" for "shall" in the passage above quoted.

3. Sufficient copies are enclosed for distribution to all Legal Officers within your Region.

By Command of Rear Admiral STONE:

for
W. E. GERRENS,
Colonel,
Deputy Chief Legal Advisor.

Distribution over:—

255A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

WGB/pa.
27 Feb 45.

AC/4086/3/L4

SUBJECT : Suspension of Prison sentences.

TO : H. E. The Procuratore Generale Militare.
Via Acquasparta 2, ROME.

1. In answer to Your Excellency's letter No. 625 of 25 Feb 1945 this Sub-Commission is not prepared to state as a general rule that sentences imposed by Allied Military Courts may be suspended to enable the prisoners to join the Army.

2. The procedure which should be adopted however is for prisoners to make application on these grounds to this HQ. This Sub-Commission would then be willing to give favourable consideration to cases which appear to be desirable.

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

Copy to : AC/4002/L

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FROM: Lt.Col. I.G.H.CAMPBELL

LEGAL SUB-COMMISSION

HEADQUARTERS

ALLIED COMMISSION

APO 394

10 FEBRUARY 1945.

Dear

As you know, your region is to be bereft of all legal officers in the near future -- I except, of course, Naples Commune. This raises the question of the disposal of Allied Military Court Records other than those of Naples Commune. No decision on this point has yet been taken but it seems that they will have to come to ROME there to be disposed of as may be decided.

As soon as a decision is made you will be informed: but please take this as a "warning order" so that on receipt of final instructions you can arrange for their speedy dispatch.

Yours,

le

Lt. Col. L.P. DAVIS
Regional Legal Officer
Southern Region

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FROM: Lt. Col. I.G.H. CAMPBELL

LEGAL SUB-COMMISSION

HEADQUARTERS

ALLIED COMMISSION

APO 394

10 FEBRUARY 1945.

Dear Matthews

As you know, your region is to be bereft of all legal officers in the near future. This raises the problem of the disposal of Allied Military Court Records. No decision on this point has yet been taken but it seems that they will have to come to ROME and there be dealt with as may be decided.

Please take this as a "warning order" so that on receipt of final instructions you can arrange for their speedy dispatch.

Yours,

Le

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Major E. K. MATTHEWS,
Regional Legal Officer,
Sicilia Region.

252A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

IGHC/pa.
9 Feb 45.

AC/4002/L.

SUBJECT : Penalties - Italian Law Violations.

TO : Regional Commissioner, TOSCANA Region.
(Attn: Regional Legal Officer)

1. Reference RVIII/19/2000 of 5 February 45.

2. This Sub-Commission agrees with paras 1 (a) and (b). It does NOT agree with 1 (c). It is true that failure to comply with olive oil amassing laws constitutes an offence under Proc. 1 (14). But RM, CC, and CO, FF. in default of express authority, have no right of search for the purpose of enforcing the Allied Proclamations and Orders. The difficulty can be overcome because it would be legal and proper for the Allied Military Government to order or authorize laws enforcing agencies to search premises in which there is reasonable ground for belief that an offence against the olive oil amassing law is being committed. It is considered that any such order should take the form of a written instruction to the head of the RM, CC, or CO, FF. : and there would be no legal objection to such order being given on a provincial basis. However, before any directive to the above effect is issued by R.I.O. to RLO's it should be confirmed that Regional HQ do not desire that such orders, if any, be issued on a regional level.

3. Charges under Proc. 1 (14) are not strictly charges under Italian law : the charge is under the Proclamation and the particulars show what Proc. Order or law is alleged to have been broken. It is, however, essential that charges which are in substance based on Italian law be kept to the minimum : officers in the field have not the experience or the works of reference to enable them properly to handle such cases. As to review of such cases see AC/4002/L dated 7 Dec 44.

By command of Rear Admiral STONE :

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79

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

Copy to : AC/4002/L.

SUBJECT: Legal.

AMC 8th Army.

REF: RLY/LE/203.

9 January 1945.

LIST II.

1. Attached hereto is a new consolidated directive on AMC Court procedure. This directive embodies or supersedes all previous legal and court directives contained in the CAOs directive file, and which was 4, 20, 22, 31, 37, 42, 79 and 83, which will be removed from the file and destroyed.

2. This directive contains in a concise form the procedure to be followed by CAOs in handling Summary Court cases from the time of an accused's arrest, through the preparation of the charges, the conduct of the trial, and the preparation and forwarding of the necessary record of the proceedings. Attached as appendices are specimen forms of charges, charge sheet and a completed form of Summary Court record.

3. In order to obtain the full benefit and assistance from this directive, it is advised that CAOs consult it freely when preparing charges and Summary Court records, and that they have it before them while conducting Summary Court trials.

4. This directive summarizes the more important directions contained in "Consolidated Instructions for Allied Military Courts". However, CAOs must also be familiar with this book, and should always have it before them when holding court.

5. Also forwarded herewith are a supply of the new combination Summary Court charge sheets and summons with court record on the reverse side (Form 2/4) and of commitment forms. Form 2/4 will hereafter be used in all Summary Court proceedings in accordance with the attached directive. Further supplies may be obtained from the FLO.

6. This directive will be placed on the CAC's directive file and numbered 83. A spare copy is also forwarded to facilitate its use in accordance with paragraph 3 above.

from the time of an accused's arrest, through the preparation of the charges, the conduct of the trial, and the preparation and forwarding of the necessary record of the proceedings. Attached as appendices are specimen forms of charges, charge sheet and a completed form of Summary Court record.

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6. This directive will be placed on the CAO's directive file and numbered 83. A spare copy is also forwarded to facilitate its use in accordance with paragraph 3 above.

William H. Hunt

Major, J.A.G.D.
Senior Legal Officer
For Group Captain
Officer Commanding
AIG 6th Army.

See Capt. H. H. Hunt

20.1.45 This is a good book- up of consolidated instructions

+ a few useful specimen charges

(2) Only only adverse comments are in 14 782

When wanted in

26 Jan 45

for

sent

NH

A.M.C.
Eighth Army

PROCEDURE IN AMG COURTS.

1. Jurisdiction.

(a) Proclamation violations. AMG Courts have jurisdiction to try all violations of AMG proclamations and orders.

(b) Violations of Italian law.

(i) General. Offenses under Italian law may be tried in AMG Courts only after specific authorization by the ECAO Army. Where it is desired to try such an offense in an AMG Court, the request for the necessary authorization will be submitted through the PLO. Such authorization should only be asked for and will only be granted in exceptional cases.

(ii) Prostitution. Such cases are normally more easily handled by the Italian Courts, and should be referred to the Italian Courts for trial, except where there is some special reason for trial by an AMG Court. Where such special reason exists, the charge should be laid under Proclamation No. 1, paragraph 45 (acts to the prejudice of good order), and since the charge is brought under the Proclamation, no special authorization to try the case is required.

(iii) Black Market, Rationing, etc. Proclamation No. 1, paragraph 44 makes it an AMG offense to violate the Italian laws relating to rationing, black market, prices, etc. Since these are made offenses against our proclamation, no special authority is required to try these cases in AMG Courts. All such cases will, however, be handed over to the PLO, who will personally supervise the drafting of the charges and will either try them himself or give directions for their trial. The foregoing does not refer to violations of AMG price orders, which will be tried in the usual manner under Proclamation No. 1, paragraph 42 (disobedience of an AMG order).

(iv) "Failure to have proper means of identification." (Proclamation No. 1, Paragraph 41). While no special authorization is required to try violations of this section since the

the PLO. Such authorization should only be granted for and will only be granted in exceptional cases.

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(iv) "Failure to have proper means of identification." (Proclamation No. 1, Paragraph 41). While no special authorization is required to try violations of this section since the charge is brought under the proclamation, it is important to bear in mind that Italian law does not require every civilian to possess an identity card. The Italian law requires that an "identity card" or "equivalent documents of identification" must be produced to the police on demand. "Equivalent documents" are defined as including any document carrying a photograph of the holder and issued by a State administration, e.g., driving license, arms license, railway booklet of state employee, passport or any other document in which the holder's identity is certified in writing by a department of the state administration.

(e) Jurisdiction over Persons. AMG Courts have jurisdiction to try all persons found within occupied territory, except:

(i) Prisoners of War.

(ii) Members of the Allied Forces. The expression "Members of the Allied Forces" includes members of all organized

contingents of the United Nations under the command of the C. in C., Italy. It does NOT include members of the Italian Forces, who may accordingly be tried in AMG Courts. All cases of charges against members of the Italian Forces (including Carabinieri) will, however, be referred first to the Provincial Legal Officer.

2. Juvenile Offenders.

(a) Trial. Juveniles (persons under 18 years of age) will be tried in an appropriate court (General, Superior or Summary) but the proceedings should be informal with the public excluded, except for members of the family of the accused; otherwise follow the normal procedure.

(b) Sentence. Juveniles should normally be sent to reformatories, if available; otherwise, a sentence of imprisonment will have to be imposed. In assessing the sentence the youth of the accused must be considered, and full use should be made of the power to suspend all or part of the sentence. If the accused appears to be a hardened criminal, he may be given a substantial term of imprisonment.

3. Commencement of Proceedings. Proceedings are commenced either by arrest when Arrest Report will be used, or by summons Form No. 2/4 (App. "A"). When an arrest is made the C.C.R.R. or the police must complete the Arrest Report in duplicate and sign it before leaving the place, where the accused is detained. One copy is left at the jail; the other copy forwarded to the prosecutor. In order to avoid overcrowding jails, it is desirable where the accused has a fixed local abode and the charge is not of a serious nature to utilize the summons rather than the procedure of arrest for ensuring the attendance of accused persons; however, persons arrested for any form of security offense including check-line violations will normally be kept in jail pending trial. An accused who fails to appear in answer to the summons can always be subsequently apprehended and may in proper cases be charged with contempt of court and dealt with summarily (Paragraph 12, Rules of Procedure for AMG Courts). Where it appears desirable, the accused can be required to deposit an adequate sum by way of bail conditional upon his appearance at the time and place of trial. Release on bail can, however, only be granted on order of the court.

the power to suspend all or part of the sentence of a convicted criminal, he may be given a substantial term of imprisonment.

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4. Charges.

(a) Serious Charges.

(i) If the offense with which the accused is charged is of a serious nature and appears to call for a sentence beyond the power of a Summary Court to impose, the CAO will not try the case, or if he has already commenced the trial he will not pronounce a finding or sentence, but will immediately commit the case to a higher court and forward the record to the Provincial Legal Officer. It is extremely important that the above procedure be followed because once a CAO has pronounced a finding and sentence in a case, no further action by the CAO or higher authority which could result in the imposition of a higher sentence is permitted. If there is any reasonable risk of witnesses ceasing to become available for the subsequent trial, the CAO (sitting as a Summary Court) shall record all available evidence before committing the case.

(ii) Offenses or attempts to commit offenses having a possible implication of sabotage will not be tried by CAOS without first referring the matter to the PIO, who will determine the appropriate court to try the case. Such offenses include:

- Wire Cutting
- Interfering with means of communication
- Interfering with petrol pipe line
- Interfering with means of transportation -- such as railway and railway operating equipment, etc.
- (iii) Charges against partisans of an involved nature or which may have embarrassing consequences, e.g., unauthorized collection of funds, etc., to the civil population, will be referred to the PIO before trial by CAOS. Simple retention of arms may be dealt with in Summary Court without such reference, as paragraph 2 (a) (i), supra, is not applicable.

(b) Framing of Charges:

(i) Drafting of Charges. Care must be taken to ensure that charges are properly drawn. Every accused is entitled to know with certainty the offense against which he must defend himself. In particular, the charge must correctly state the Proclamation, Article and Section violated and the place, date, and particulars of violation. When preparing charges reference should be made to specimen charges (Appendix "B") attached hereto.

(ii) Charges "to the prejudice of good order". Charges in respect of alleged acts "to the prejudice of good order" Proclamation No. 1, Article V, Section (45) should be put forward only in exceptional cases, and then only when it is quite impossible to frame a charge under any other section of the Proclamation.

(iii) Charge Sheet (Form 2/4). Charges will be prepared on Form No. 2/4 in triplicate. One copy will be handed to the accused a reasonable time before the trial both in the case when it is being used as a summons and also when the accused is under arrest. The remaining copies will be before the Judge at the trial who will complete the record of the trial on the back of the form in duplicate, using carbon paper.

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5. Disqualification for Sitting as Summary Court Judge.

A CAO who has taken part in the investigation of a case or who may be prejudiced by personal knowledge of the facts of the case is disqualified from sitting as Judge in any such case. In cases involving minor offenses and where the facts are undisputed, it is occasionally both necessary and desirable for CAOs to sit as Judges even though they have prior knowledge of the case. But such practice must never be adopted where the charge is serious or the facts are disputed.

6. The Trial.

(a) General. Wherever possible, trials should be held in a suitable room, preferably the local court-room, if one is available. CAOs should never forget that a Summary Court trial

is a judicial proceeding and they should conduct their courts with as much formality as the situation permits. It is important not only that justice be done in each case, but that the proceedings be so conducted that it is manifestly apparent that justice is being done. Special care should always be taken to see that the rights of the accused, as detailed on Form 2/4, are respected, and that the accused is aware of these rights.

(b) The Proceedings.

(i) Swear the Interpreter. Swear the interpreter. The following form of oath is to be used: "Do you solemnly swear by Almighty God that you will to the best of your ability truly interpret and translate as you shall be required to do?"

(ii) Arraign the Accused. Read each charge to the accused and explain it to him if necessary and ask him if he pleads "guilty" or "not guilty" to each charge. Enter the plea on the record. The Court must never influence an accused to plead "guilty". Italians are unfamiliar with our procedure of "arraignment" and "plea", and it is often difficult to get them to say whether they are "guilty" or "not guilty". In such cases ask the accused whether he admits the facts alleged in the charge or whether he denies them. If he admits the facts enter a plea of "guilty"; if he denies them enter a plea of "not guilty".

(iii) On Plea of "Guilty". If the accused pleads "Guilty" make sure that he realizes the effect of such a plea. If there is a prosecutor he will briefly give the facts of the case or the Arrest Report may be placed before the Court. The accused will be given an opportunity of stating his version of the facts and any mitigating circumstances.

(iv) On Plea of "Not Guilty". If the accused pleads "Not Guilty" then oral evidence will be given under oath in proof of the charge. Witnesses will take the following oath:

"Being conscious of the responsibility which this oath imposes on you before God and man, do you swear to speak the whole truth and nothing but the truth?"

"Consapevole della responsabilità che col giuramento assumete davanti a Dio e agli uomini giurate di dire tutta la verità e null'altro che la verità?"

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The accused will be given an opportunity to cross-examine each witness for the prosecution. Witnesses should normally be required to personally appear before the court. The Arrest Report or a written statement of a witness will only be admitted in evidence when the person making the report or the statement is prevented from attending at the trial by death, sickness, or unavoidable necessity. When such is the case, the contents of the Arrest Report or statement may be accepted as prima facie evidence for the prosecution - sufficient to impose on the accused the necessity of making his explanation of the allegation made. If there is a serious dispute on the facts, an accused who has pleaded "not guilty" should not be convicted solely on the contents of an Arrest Report or written statement, unless there is some corroborative evidence from elsewhere.

On the close of the case for the prosecution the accused will be given the opportunity of giving evidence and of calling such witnesses as he desires. The accused must be made to understand that he is not obliged to give evidence if he does not wish, but that if he does, it must be on oath and he will

be liable to cross-examination.

If the accused is represented by an advocate, he should be given the opportunity of addressing the court at the conclusion of the taking of the evidence.

7. Findings.

Findings of guilt will only be made when the Judge is convinced beyond a reasonable doubt that the accused is guilty on the evidence produced by the court. A finding of guilt or not guilty will be pronounced on each charge. If the facts proved in evidence do not constitute the offense charged, but do constitute some other offense, the charge may be amended and the accused convicted of the alternative offense. In such case the Record must contain a note of the amended charge and finding.

8. Sentences.

(a) Authorized punishments. Only authorized punishments may be imposed. The following are the only punishments authorized for a Summary Court:

- (i) Imprisonment up to 1 year.
- (ii) Fines up to \$5,000 fine, always accompanied by an alternative jail sentence in default of payment.
- (iii) Both such imprisonment and fine.
- (iv) After conviction for wrongful use, sale, purchase or possession of property, in addition to any other punishment, the Court may order the property confiscated or forfeited. Such power will not be exercised where the wrongful use is merely incidental to the charge.

75

Examples: (a) Accused is convicted of possession of firearms without a permit, or wrongful possession of loaded property. The property should be confiscated.

(b) Accused is convicted of being out after curfew without a permit. At the time of his arrest he was driving an automobile. The automobile should not be confiscated.

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Examples: (a) accused is convicted of possession of fire arms without a permit, or wrongful possession of Allied Property. The property should be confiscated. 25

(b) accused is convicted of being out after curfew without a permit. At the time of his arrest he was driving an automobile. The automobile should not be confiscated.

(v) Orders closing premises and orders as to residence.

(b) One Year Maximum. In applying the foregoing, the following will be adhered to:

- (i) In no case can a person convicted by a Summary Court be kept in jail in respect of that conviction for more than 1 year.
- (ii) While a separate sentence is to be imposed on each charge (see paragraph 8 (c)(i)), if more than one act of imprisonment is imposed and the total is more than 1 year, the separate terms must run concurrently (paragraph 8 (c)(iii)), so that the 1 year maximum is not violated.
- (iii) If a term of imprisonment and a fine with an alternative jail sentence in the event of default are imposed, the total of such terms shall not exceed 1 year.

(c) Requirements.

- (1) Separate Sentences on Each Charge. A separate

sentence will be recorded in respect of each charge of which the accused has been found guilty.

(ii) Fines. Where a fine is imposed, an alternative jail sentence must always be imposed, and the date by which the fine is to be paid must be announced and recorded. If the whole of the fine is not paid by the date fixed, the accused must serve the whole of the alternative jail sentence, in addition to any other term of imprisonment imposed. Where the fine is paid, the date of payment and receipt number will be entered on the record.

(iii) Imprisonment - Consecutive or Concurrent. Where an accused is sentenced to imprisonment on each of two or more separate charges, the court must announce and record whether such sentences to imprisonment are consecutive or concurrent. (This does not apply to an alternative jail sentence in default of payment of a fine, each sentence always being in addition to any other term of imprisonment imposed). Sentences are consecutive when they are to be served one after the other; they are concurrent when they are to be served at the same time.

Examples:

- (a) Consecutive: Charge I, 6 months; Charge II, 3 months. Total to be served, 9 months.
 (b) Concurrent: Charge I, 6 months; Charge II, 3 months. Total to be served, 6 months.

(iv) Orders as to Confiscation and Disposition of Property. Any order as to confiscation and disposition of property must be announced and entered in the record. Such order is always required where accused is found guilty of possession of firearms or theft or possession of Allied Property. Disposition of confiscated property is as follows:

- a. Allied Property: To nearest military depot dealing with that type of goods.
- b. Arms and Ammunition: To C.C.R.R.
- c. Money: To Provincial Finance Officer.
- d. Other Property: At disposition of Provincial Commissioner.

Receipts should be obtained against delivery of property.

(d) Guide to Imposition of Sentences.

- (1) Purpose of MAG Courts. One of the purposes of

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- (a) Consecutive: Charge I, 6 months; Charge II, 3 months. Total to be served, 9 months.
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property.

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(d) Guide to Imposition of Sentences.

(i) Purpose of AMG Courts. One of the purposes of AMG Courts is to impose sentences that will be a deterrent to others. CAOs should not be afraid to impose reasonably heavy sentences where the facts justify it. On the other hand, unreasonably heavy sentences should not be imposed in petty cases.

(ii) Fines. Experience has shown that fines are not an effective deterrent and should not normally be imposed (unless coupled with a term of imprisonment) except in petty cases.

(iii) Alternative Jail Sentences. The term of imprisonment imposed in default of payment of a fine (see paragraph 8 (b)(ii)) must be reasonable in relation to the size of the fine. A rough guide is 1 day imprisonment per 100 Lire fine.

(iv) Suspended Sentences. The Court has the power to suspend all or part of a sentence of imprisonment, but NOT of a fine. Such power should be used sparingly and only for exceptional reasons, e.g., age or ill-health of accused, or some

special extenuating circumstances. This may be done only at the time of passing sentence, and the reasons for the suspension should be stated in the record. It should be explained to the accused that in the event of his subsequent conviction for any offense by any AMG court the suspended sentence will have to be served in full.

(e) power to Vary a Sentence. Once a sentence has been imposed, the CAO has no power to vary it in any way. This means that after imposition of sentence, he may not suspend, increase or decrease the sentence; nor may he change a sentence of imprisonment to fine or vice versa, or change the sentence in any other way. Such power rests only in the reviewing authority. If the CAO feels an injustice has been done, he should advise the MG of the facts together with his recommendations.

9. Record of Proceedings at Trial.

(a) Form. The reverse side of Form 2/4 will be used to record the trial proceedings in each case.

(b) Summary of Evidence.

(i) Where accused pleads "Guilty", it is sufficient to attach the Arrest Report to the record (if it was considered by the Court), and to briefly record any mitigating circumstances presented by the accused.

(ii) Where the accused pleads "Not Guilty", it is required that a summary of the material evidence of each witness be recorded. The summary need not be lengthy, but must be sufficient to enable the reviewing authority to review the case. In simple cases and circulation cases, it is sufficient to record "as charged" under "Prosecution" together with a brief summary of accused's defense under "Defense". The record should be tidy and legible, and the summary should be recorded in a consecutive story in the first person. The names and addresses of all witnesses should be recorded. The summary must be completed at the time of the trial. This is important as the reviewing officer requires a contemporary record of what was said at the trial.

If the Court imposes what appears to be an unduly severe sentence, a brief statement of the Court's

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If the Court imposes what appears to be an unduly severe or unduly light sentence, a brief statement of the Court's reason therefor should be recorded.

A specimen form of Record of Proceedings is set forth on the reverse side of Appendix "A".

(c) Sentence and Other Orders. It is essential that all spaces on the form are completed with the appropriate entries. (See reverse side of Appendix "A" for specimen form).

10. Committal to Jail. When the accused is sentenced to a term of imprisonment, or when the accused is ordered to pay a fine and in default of payment a term of imprisonment and the fine has not been paid on the day of the trial, the Judge will prepare a Warrant of Committal (Appendix "C"), which will be handed to the C.C.R.R. who will execute the same forthwith in the case of a term of imprisonment, and in the case of imprisonment in default of payment of a fine they will execute it immediately after the date the fine was ordered to be paid by.

When the accused is delivered to the jail the Warrant will be handed by the C.C.R.R. to the Chief Warden of the Jail.

11. Disposal of Record. Both copies of the Record (Form 2/4) with any additional sheets of evidence and exhibits will be forwarded to the PLO at the earliest moment after the trial. PLO will forward 1 copy thereof to the SLO for review and retain the other copy as his permanent record.

12. Petition for Review. Every person convicted by an AMG Court has a right to present a petition for review. This Petition will be on the prescribed form, it must be presented within 30 days of sentence, and signed by the accused or his lawyer. The brief paper or receipt of a petition will make his comments in the appropriate space and forward it to the PLO. Petitioners shall have the 30-day period will nevertheless be forwarded to the PLO; but advocates will not be informed of this.

APPENDIX "A"

Form No. 2/4.

CASE NO. _____
 Case No. to be inserted by H.Q.

Province _____

GOVERNO MILITARE ALLEATO

FOGLIO DI ACCUSA

Place _____
 Luogo _____
 Date 15 November 1944.
 Data _____

ROCCI Antonio
 Name of Defendant
 Nome dell'accusato
 Address 69 Viale Mario
 Indirizzo (No. Street) _____

 (Commune, Province)

First charge - Violation of Proclamation No. 1, Art. V, Sec. 27.

Particulars: In that ROCCI Antonio, at Riccione, Province of Forlì, on or about 13 Nov. 44 did knowingly have in his possession 10 pairs of boots, and 6 pairs of trousers, property of the Allied Forces of an aggregate value of not more than L. 10,000.

Second charge - Violation of Proclamation No. 1, Art. V, Sec. 46.
 Particulars: In that ROCCI Antonio, on or about 13 Nov. 44 did travel to Riccione, Province of Forlì, a place more than ten (10) kilometers beyond his own home without a permit.

TRADUZIONE

Prima accusa: Violazione del Proclama No. 1, Art. V, Sezione 27.
 Dettagli - In quanto ROCCI Antonio, a Riccione, Provincia di Forlì, il o verso il 13 Novembre 1944 indubbiamente in possesso dieci paia di scarpe e sei paia di pantaloni, proprietà delle Forze Alleate aventi un valore complessivo di non più di lire 10,000.

Seconda accusa: Violazione del Proclama No. 1, Art. V, Sezione 46.
 Dettagli - In quanto ROCCI Antonio il o verso il 13 Novembre 1944 si dirigeva a Riccione, Provincia di Forlì, un luogo distante più di dieci (10) chilometri dalla sua propria casa senza un permesso.

Particulars: In that ROCCI Antonio, at Riccione, Italy, about 13 Nov. 44 did wrongfully have in his possession 10 pairs of boots, and 6 pairs of trousers, property of the Allied Forces of an aggregate value of not more than L. 10,000.

Second charge - Violation of Proclamation No. 1, Art. V, Sezione 46.

Particulars: In that ROCCI Antonio, on or about 13 Nov. 44 did travel to Riccione, Province of Forli, a place more than ten (10) kilometers beyond his own home without a permit.

TRADUZIONE

Prima accusa: Violazione del Proclama No. 1, Art. V, Sezione 27.
 Dettagli - In quanto ROCCI Antonio, a Riccione, Provincia di Forli, il o verso il 13 Novembre 1944 indistintamente in possesso dieci paia di scarpe e sei paia di pantaloni, proprietà delle Forze Alleate aventi un valore complessivo di non più di lire 10,000.

Seconda accusa: Violazione del Proclama No. 1, Art. V, Sezione 46.

Dettagli - In quanto ROCCI Antonio il o verso il 13 Novembre 1944 si diresse a Riccione, Provincia di Forli, un luogo distante più di dieci (10) chilometri dalla sua propria casa senza un permesso.

S/John Jones, Capt.
 (Giudice, Tribunale Militare Inferiore o altro individuo autorizzato)

CITAZIONE

Data 15 November 1944.

Name (Nome) ROCCI Antonio

Address (Indirizzo) 69 Viale Mario, Fano

Voi siete a mezzo di ciò citato e richiesto di presentarvi personalmente davanti al Tribunale Militare Alleato Sommario/Espresso a 54 Via Lisa, Riccione (Indirizzo della - Address of Court), addì: 15 November 1944.
 alle ore 1000 A.M. sotto le suddette accuse:
 (ore - hour)

S/John Jones, Capt.
 Firma dell'individuo autorizzato

(RIGHTS OF ACCUSED OBTAINED)

REMARKS OF COURT (Comments on evidence, reasons for conviction, etc.)

I did not believe the accused's story and there were no mitigating circumstances.

MOCCHI Giuseppe (Advocate for accused)		13 Nov. 44. (Date of trial)	Riccione (Place of trial)	32 (Age of accused)			
CHARGE	PLEA	FINDING	IMPRISONMENT	LIFE FINE	TO BE PAID BY	TERM IN DEFAULT	FINE PAID ON
I	NG	G	4 months				
II	NG	G	1 month	500	At once	7 days	18 Nov. 44. Receipt No. 6054.
III							

Other orders (Suspension of sentence to imprisonment, (with reasons for suspension), Confiscation of property, etc.): The property to be confiscated and delivered to the nearest RACC Depot.

Where imprisonment is awarded on more than one charge state here whether the above sentences are consecutive, concurrent or partly concurrent: CONCURRENT

The total term of imprisonment is 4 months — Prison to which committed: REMI.

S/John Jones, Capt.
(Signature of Presiding Officer)

REVISION OF REVIEW

Date 194

(Signature of Reviewing Officer)

* Use extra sheets where facts or evidence are lengthy or complicated.

Appendix "B"

SPECIMEN CHARGES1. POSSESSION OF FIREARMS AND AMMUNITION.

CHARGE: Violation of Proclamation No. 1, Article IV, Section 5.

PARTICULARS: In that Bruno Vitale, at the Commune of Bologna, Province of Bologna, on or about 10 August 1944, did have in his possession a pistol and five (5) rounds of ammunition without a permit of the Allied Military Government.

2. ENTERING A FORBIDDEN AREA.

CHARGE: Violation of Proclamation No. 1, Article IV, Section 10.

PARTICULARS: On or about 10 August 1944, did enter an area designated as a forbidden area by the posting of a sign, without a pass specifically authorizing him to be there, to wit, he did enter an airfield of the Allied Forces.

3. POSSESSION OF ALLIED PROPERTY (VALUE OVER 10,000 LIRE).

CHARGE: Violation of Proclamation No. 1, Article IV, Section 11.

PARTICULARS: On or about 10 August 1944, did steal (wrongfully have in his possession) property of the Allied Forces to the aggregate value of more than 10,000 Lire, an itemized list of said property being attached hereto.

(Note: If the property has an aggregate value of not more than 10,000 Lire, the charge will be laid under Article V, Section 27, and the word "not" will be inserted before the words "more than 10,000 Lire").

4. CUTTING A TELEPHONE LINE.

CHARGE: Violation of Proclamation No. 1, Article IV, Section 12.

PARTICULARS: On or about 10 August 1944, did damage a telephone wire by cutting the said wire.

5. ASSAULTING A MEMBER OF THE ALLIED FORCES.

CHARGE: Violation of Proclamation No. 1, Article IV, Section 16.

designated as a forbidden area by the posting of a sign specifically authorizing him to be there, to wit, he did enter an airfield of the Allied Forces.

3. POSSESSION OF ALLIED PROPERTY (VALUE OVER 10,000 LIRE).

CHARGE: Violation of Proclamation No. 1, Article IV, Section 11.

PARTICULARS: On or about 10 August 1944, did steal (wrongfully have in his possession) property of the Allied Forces to the aggregate value of more than 10,000 Lire, an itemized list of said property being attached hereto.

(Note: If the property has an aggregate value of not more than 10,000 Lire, the charge will be laid under Article V, Section 27, and the word "not" will be inserted before the words "more than 10,000 Lire").

4. CUTTING A TELEPHONE LINE.

CHARGE: Violation of Proclamation No. 1, Article IV, Section 12.

PARTICULARS: On or about 10 August 1944, did damage a telephone wire by cutting the said wire.

5. ASSAULTING A MEMBER OF THE ALLIED FORCES.

CHARGE: Violation of Proclamation No. 1, Article IV, Section 16.

PARTICULARS: On or about 10 August 1944, did assault Private John Jones, 34278195, Company "A", 1st Battalion, 327th Infantry, U.S. Army, a member of the Allied Forces, with intent to inflict serious bodily harm, by striking him on the head with a rock.

(Note: If only a simple assault is involved, the charge will be laid under Article V, Section 32, and the words, "with intent to inflict serious bodily harm" will be omitted.)

6. FORGERY.

CHARGE: Violation of Proclamation No. 1, Article IV, Section 20.

PARTICULARS: On or about 10 August 1944, did forge (or alter) a circulation pass (or, have in his possession a circulation pass, the same having been forged or altered.)

7. FAILURE TO DECLARE ABANDONED ENEMY PROPERTY.

CHARGE: Violation of Proclamation No. 1, Article V, Section 28.

PARTICULARS: On or about 10 August 1944, did fail to declare within one (1) month of 1 July 1944, the date of which Proclamation No. 1 was posted in the Command of Bologna, that he was in possession of twenty-four (24) blankets, the same being military property abandoned by the enemy.

8. OWNED TO PRISON.

CHARGE: Violation of Proclamation No. 1, Article V, Section 35.

PARTICULARS: On or about 10 August 1944, did offer a bribe to one Private John Jones, a member of the Allied Forces, in connection with an official matter, to wit, he did offer to pay the said Private John Jones the sum of 50,000 Lire, in return for the outturning of a War Department vehicle to be used for private purposes.

9. DISOBEYANCE OF AN ORDER.

CHARGE: Violation of Proclamation No. 1, Article V, Section 42.

PARTICULARS: On or about 10 August 1944, did disobey an order given under the authority of the Allied Forces, to wit, he having been ordered verbally by Lieutenant John P. Jones, an officer of the Allied Forces, to move his horse and cart from the Via Emilia, did fail to do so.

(Note: In a charge under this Section full particulars of the alleged order must be given, stating whether it was verbal or in writing.)

10. TRAVEL WITHOUT A PERMIT.

CHARGE: Violation of Proclamation No. 1, Article V, Section 46.

PARTICULARS: On or about 10 August 1944, did travel to Faenza, a place more than ten (10) kilometers beyond his own home without a permit.

11. CONSPIRACY.

CHARGE: Violation of Proclamation No. 1, Article VI, Section 1.

PARTICULARS: At various times between the 1st and 10th days of August 1944, did conspire with Verid Giuseppe and Polo Marpo to do an act constituting an offense under Proclamation No. 1, to wit, to offer a bribe to Private John Jones, a member of the Allied Forces, in connection with an official matter.

9. DISOBEDIENCE OF ORDER

CHARGE: Violation of Proclamation No. 1, Article V, Section 42.

PARTICULARS: On or about 10 August 1944, did disobey an order given under the authority of the Allied Forces, to wit, he having been ordered verbally by Lieut. John R. Jones, an officer of the Allied Forces, to move his horse and cart from the Via Emilia, and fail to do so.

(Note: In a charge under this Section full particulars of the alleged order must be given, stating whether it was verbal or in writing.)

10. TRAVEL WITHOUT A PERMIT

CHARGE: Violation of Proclamation No. 1, Article V, Section 46.

PARTICULARS: On or about 10 August 1944, did travel to Puenza, a place more than ten (10) kilometers beyond his own home without a permit.

11. CONSPIRACY

CHARGE: Violation of Proclamation No. 1, Article VI, Section I.

PARTICULARS: At various times between the 1st and 10th days of August 1944, did conspire with Verba Giuseppe and Polo Marco to do an act constituting an offense under Proclamation No. 1, to wit, to offer a bribe to private John Jones, a member of the Allied Forces, in connection with an official matter.

12. ATTEMPT

CHARGE: Violation of Proclamation No. 1, Article VI, Section II.

PARTICULARS: On or about 10 August 1944, did attempt to do an act which constitutes an offense under Proclamation No. 1, to wit, he did attempt to steal property of the Allied Forces from a warehouse in the Via Emilia.

FORM N. 6
(riveduto)

FORM N. 6
(revised)

APPENDIX "C"

ALLIED MILITARY GOVERNMENT - COMBINATION
GOVERNO MILITARE ALLEATO - MANDATO DI CATTURA

TO: The Officer in Charge of any prison, etc.

Whereas one
Poiche' un

POCHI Antonio
(Name - Name)

of 69 Viale Napoli, Rome, Italy,
di (Indirizzo - Indirizzo)

has been convicted of an offense against: Para. 1, Art. V, Sec. 27 - Wrong-
e' stato condannato per contrabbando: Para. 1, Art. V, Sec. 27 - Wrong-
and Para. 1, Art. V, Sec. 27 - Wrong-
Ser. 27 - Para. 1, Art. V, Sec. 27 - Wrong-
Dipartimento di Guerra ed Art. V, Sec. 27 - Wrong-

and has been sentenced by an Allied Military Court
ed e' stata pronunciata sentenza da un Tribunale Militare Alleato

to serve a sentence of 4 months imprisonment,
a scontare la pena di Quattro mesi di prigione,

such sentence to commence on the 18th day of November 1944
tale sentenza a partire dal giorno 18 Novembre 1944

and to pay a fine of 500 lire,
e di pagare una multa di 500 lire.

Such fine to be paid by the 18th day of November 1944
Tale multa dev'essere pagata entro il 18 Novembre 1944.

and in default of payment of such fine by the last mentioned date to serve
a further sentence of 7 days imprisonment,
e nel caso di mancato pagamento di tale multa entro tale data menzionata deve
scontare una ulteriore pena detentiva di 7 giorni di prigione.

Ser. 27 - Enrico Giovani, in qualità di detenuto di guerra, è stato trasferito al Dipartimento di Guerra in La Corte, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 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999, 1000.

and has been sentenced by an Allied Military Court
ed e' stata pronunciata sentenza da un Tribunale Militare Alleato

to serve a sentence of 4 months imprisonment,
a scontare la pena di quattro mesi di prigione,

such sentence to commence on the 18th day of November 1944
tale sentenza a partire dal giorno 18 novembre 1944

and to pay a fine of 500 lire,
e di pagare una multa di 500 lire.

Such fine to be paid by the 18th day of November 1944
Tale multa dev'essere pagata entro il 18 novembre 1944.

and in default of payment of such fine by the last mentioned date to serve
a further sentence of 7 days imprisonment,
e nel caso di mancato pagamento di tale multa entro tale data menzionata dove
scontare una ulteriore pena detentiva di 7 giorni di prigione.

Now, therefore, you are hereby authorized to receive the said person into
your custody and detain him in accordance with the sentence so imposed or
until further order of this Court or of a competent Military Authority and
for so doing this shall be sufficient warrant.

Pertanto, siete autorizzato a ricevere detta persona in vostra custodia e
trattenere la conformemente alla sentenza così pronunciata o fino ad ulteri-
ore disposizione di questa Corte o di una competente autorità militare o
per procedere in tal senso questa vale quale autorizzazione.

Signed this 18th day of November 1944
Firmato il

Fine paid
18 November 1944.
La multa e' pagata
18 Novembre 1944.

S/John Jones, Capt.
(Presiding Officer - L'Ufficiale
Presidente)

Summary Court
(Court -- La Corte)

4002

Legal (2504)

HEADQUARTERS
SOUTHERN REGION, ALLIED CONTROL/COMMISSION
OFFICE OF THE REGIONAL COMMISSIONER
APO 394

R/1477

19 January 1945

SUBJECT: Allied Military Courts, Naples.

TO: Headquarters, Allied Commission,
(Civil Affairs Section).

Thank you for your AC/4002/L of 15 January and for
the information which you give in respect of the staffing
of Allied Military Courts in the Naples area.

J. K. DUNLOP
J. K. DUNLOP,
Brigadier,
Regional Commissioner.

JKD/jh

Copy to: Legal Div (S.R. A.C.)

LEGAL DIVISION
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HEADQUARTERS
SOUTHERN REGION, ALLIED CONTROL COMMISSION 19 JAN 1945
OFFICE OF THE REGIONAL COMMISSIONER
APO 394

R/1292

16 January 1945.

SUBJECT: Military Courts - Additional Members.

TO : Headquarters, Allied Commission.

1. Reference this office letter R/1307 dated 18th December 1944 and your letter AC/4002/L dated 21st December 1944. We have received no further information regarding additional officers for staffing the military courts in Naples. May an answer now please be given as the matter has become one of great urgency.

J. K. Dunlop
J. K. DUNLOP
Brigadier,
Regional Commissioner.

EL?tt

LEGAL SUB COMMISSION	
Chief Counsel	
Italian Section	
CL RKS	
19 JAN 1945	

Received from Cds
18/1/45 1800 hrs.

NA
Answered by 248A
69

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

ICAC/pc.
15 Jan 1945.

AC/4002/L.

SUBJECT : A. M. Courts, HAWAII.

TO : Regional Commissioner, SOUTHERN Region.

Reference E/1307 of 18 Dec 44, and answer thereto AC/4002/L. of 21 Dec 44.

1. AFM states that all re-inforcement training detachments located in 3 District are under HQ 3 District for local administration; that the GOC can call on any unit to provide an officer on a day to day basis and that the GOC is being informed accordingly. A copy of AFM letter is attached.

2. In view of this answer, and the fact that the GOC has said that he would be glad to help it is hoped that you will have no further difficulty.

By command of Rear Admiral SCORIE :

O. R. HENCK, Brig.
VP CA Sec
Dep GOC AC

1 Incls.

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

HYA/jw

12 January 1945

G-5: 015

SUBJECT: A.M. Courts, NAPLES

TO : Headquarters, Allied Commission, APO 394.

Reference your AG/4002/L dated 21 December.

1. Your request has been referred to G-1 (British) who reply as under:

"All Rft Training Depots located in 3 District are under that HQ for local administration.
G.O.C. 3 District can call on any unit or formation under his command to provide an officer on a day to day basis for such duties.

In the event of such calls becoming excessive, interfering with the flow of rfts or training, the unit concerned would bring the matter to the attention of CHQ 2nd Echelon under whom they are for general administration.

G.O.C. 3 District is being informed accordingly."

2. Headquarters Southern Region can now make the necessary arrangements direct with 3 District.

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

H. Y. Anderson
H. Y. ANDERSON
Major

LEG. & SUB. COMMISSION	
CLO	
DCLO	
Chief Counsel	
CL	
Relation Section	
CL RKS	
14 JAN 1945	

HEADQUARTERS 67
13 JAN 1945

246A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4002/L.

/ap.
21 December 1944.

SUBJECT : Military Courts Additional Members.

TO : Regional Commissioner, Southern Region

1. Reference your 18 Dec 1944 R/1307.
2. We are immediately requesting G-5 AFHQ to do the needful.

By command of Rear Admiral STONE:

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

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HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

24514

AG/4002/L.

21 December 1944.

SUBJECT : Military Courts - Additional Members.

TO : G-5, AFHQ.

1. It has been found essential to open new Military Courts in Naples, and for that purpose additional non legal members are required to sit with legally trained presidents. None such can be made available from SOUTHERN Region HQ Staff.

2. G.O.C. 3 District has informed the Regional Commissioner SOUTHERN Region that he would be willing to make a loan of officers for that purpose from training centres but that such centres are directly under AFHQ.

3. May the necessary arrangements be made to the end that such officers be supplied and that we be informed accordingly.

For the Chief Commissioner:

Copy to: AG/4002/1/L.
AG/4002/12/L.

G. S. PARKINSON, Brig.,
A/VP C A Sec.
Dep COS.

4002

✓

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Legal s/c

6007

245B

HEADQUARTERS
SOUTHERN REGION, ALLIED CONTROL/COMMISSION
OFFICE OF THE REGIONAL COMMISSIONER
APO 394

18 December 1944

R/1307

SUBJECT: Military Court - Additional Members.

TO: Headquarters, Allied Commission. ✓

1. The military courts at Naples are now fully extended. It will be necessary to open new courts but this can only be done, if additional, non-legal, members be found to sit with trained, legal, presidents.

2. Some additional officers have already been found through the courtesy of the Royal Navy and Royal Air Force, more, however, are needed. It is not possible for me to spare any of the specialist officers on this H.Q. staff.

3. I have approached G.O.C. 3 District for the loan of officers from training centres. He tells me that he would be glad to help, but that these training centres are directly under AFHQ.

4. Will you please take this matter up with G-5, AFHQ. Alternatively will you authorise us to take it up direct with G-5.

J. K. Dunlop
J. K. DUNLOP,
Brigadier,
Regional Commissioner.

JKD/jh

LEGAL SUB-COMMISSION	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	
21 DEC 1944	

64

file

HEADQUARTERS ALLIED COMMISSION
APO 394.
LEGAL SUB-COMMISSION

19 December 1944.

AG/4002/L.

SUBJECT : Cases under Italian Law.

TO : Regional Commissioner (Attn. Regional
Legal Officer), ABRUZZO-MARCHE Region.

1. Reference your AMR/311/2 of 18 Dec 44. It is agreed that some discretion may be allowed to P.L.Os. in deciding whether to refer a particular case to your Headquarters.

2. The penalties in these cases are not restricted to those provided by Italian law since the offence charged is an offence against the A.M.C. Proclamations. It may well be that in a normal case the penalties provided by the Italian law will be a useful guide as to the penalty which should be imposed by the A.M.C. Court.

By command of Rear Admiral STONE.

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

63

TO : H.Q. ALLIED COMMISSION
(for attention Legal Sub-Commission)

FROM : H.Q. AMG/AC ABRUZZI MARCHE REGION

SUBJECT : Cases under Italian Law

REF. : AMR/511/2

DATE : 18 Dec. '44

1. Ref. your AC/4002/L dated 7 Dec. '44 it would appear that strictly speaking all charges referred to in para 3 thereof should be authorised by the Regional Commissioner under Art. 14 of Consolidated instructions before they are preferred.

2. Many of the cases charged under Proc. 1 Art. V Sec. 44 are as you know comparatively tripling and it is feared that reference of such to this H.Q. will occasion fairly long delays and may work hardship on persons awaiting trial. May I take it that some discretion may be allowed to P.L.O. in deciding whether it is necessary to refer any particular case to this H.Q. ?

3. In cases charged under Sec. 44 is the Court limited to the penalties provided by Italian Law ?

LEGAL SUB-COMMISSION

CLO

DELO

Chief Counsel

CD

Italian Section

G. RKS 18 DEC 1944

For the Regional Commissioner

R. G. S. ALEXANDER, Major
R.L.O.

3630

02

Procura Generale del Re Imperatore

presso la Corte di Appello di

Roma

Prot. N. 14026

Da I

Ser. I

Allegati N. Risposta al foglio N. A.C./4002/L

Roma, 16 Dicembre 1944 Anno

del 7 dic. 1944

Oggetto: (Inoltrare nota alla Sottocommissione)

Relazione sulla infrazione e legge italiana

Alla Sottocommissione Legale
presso il "HEADQUARTER ALLIED
COMMISSION APO 394."

R O M A

Via Lucullo

Si ringrazia per la gentile comunicazione della circolare diretta da codesto Ufficio ai dipendenti organi giudiziari con la quale si disponeva che di tutte le infrazioni alle leggi italiane, di cui esse vengono a notizia e che vengano significate all'Autorità Giudiziaria Italiana competente, venga sempre avvertito anche codesto medesimo ufficio.

IL PROCURATORE GENERALE DEL REGNO
(G. Rubbiani)

Nota di archiviazione

ROMA

Via Lucullo

Si ringrazia per la gentile comunicazione della circolare diretta da codesto Ufficio ai dipendenti organi giudiziari con la quale si disponeva che di tutte le infrazioni alle leggi italiane, di cui esse vengono a notizia e che vengono significate all'Autorità Giudiziaria Italiana competente, venga sempre avvertito anche codesto medesimo ufficio.-

IL PROCURATORE GENERALE DEL REGNO
(G. Rubbiani)

Order of execution

G. Rubbiani

*This letter received in envelope
from Lorenzo Antonio Reggiani.*

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

file
AC/4002/L.

242A
/pa.
14 Dec 44.

SUBJECT : Consolidated Instructions.

TO : Col. Richard H. WYMER, O 114573 2000 31st Street N.W.,
Washington 8, D.C.

Enclosed herewith please find two copies of Consolidated Instructions for Allied Military Courts and two copies of Booklets containing Proclamations 1 to 4 (New Series) as per your request.

W. N. BERGERS,
Colonel,
Deputy Chief Legal Advisor.

241A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AG/4002/L.

/rlp.
14 December 1944.

SUBJECT : Cases under Italian Law.

TO : Regional Commissioner, (Attn: Regional Legal Officer),
SOUTHERN Region.

1. Reference your L-202 of 11 Dec 44 it is regretted that no mention was made in the original instructions of the position under the earlier proclamations.
2. Under the proclamations in force in AMG Territory, other than Naples, Proc. 1, Art. V, Sec 44 makes it an offence, punishable by fine or imprisonment or both if anyone "infringes any proclamation or order or any Italian law regulating or controlling the sale, purchase, distribution, allotment, rationing or transporting of any commodity or article."
3. This would correspond to an offence under Proc 8 of the old proclamations. You will recall that it has been ruled that offences under Proc 8 can be punished "as the court may determine" and not necessarily in accordance with Italian penalties; apart from this, however, the principles of Italian law apply.

By command of Commodore STONE:

W. E. BEHRNS,
Colonel,
Deputy Chief Legal Adviser.

24014

HEADQUARTERS
SOUTHERN REGION, ALLIED COMMISSION
LEGAL DIVISION
APO 384, U.S. ARMY

L-2021

11 December 1944

SUBJECT: Cases under Italian Law.

TO : Chief Legal Advisor, HQ, A.C., C.M.F.

236A

1. Your circular instruction No. AC/4002/L dated 7 December 1944 refers.

2. I cannot trace in the Proclamations now in force in the Commune of Naples the legal citation referred to in para. 3 of your circular.

3. Does this citation correspond perhaps to Section 44 or Section 45 of Article 2 of Proclamation No. 2?

4. Upon receipt of your reply I shall distribute your instructions amongst all Legal officers in the Southern Region together with such elucidation of Para. 3 thereof as may be necessary.

See
flag A

LFD/mc	LEGAL SUB-COMMISSION	
	CLO	
	DCLO	
	Chief Counsel	
	CIO	
	Italian Section	
	CLERKS	
		13 DEC 1944

L. F. DAWSON

L.F. DAWSON,
Lieut. Colonel, G.D.,
Reg. Legal Officer,
Southern Region, A.C.

In Naples it is
a violation of Proc 8,
Art 7 (see flag B)

239 A

HEADQUARTERS ALLIED COMMISSION

APC 394

LEGAL SUB-COMMISSION

AC/4022/1.

AC/1a.
12 Dec 44.

SUBJECT : Directives.

TO : Regional Commissioner, EMILIA Region.
(Attn: Regional Legal Officer)

With reference to your letter AC/4022/107 of 8 Dec 44 :

(1) There is no specific order forbidding AM Courts to deal with prostitution cases and no directive has been issued on this point.

The present policy is that as prostitution cases generally are normally more easily handled by the Italian Courts, they should be left to the Italian Courts, except where there is some special reason for any particular case to be tried by AM.

In regards your question of a woman infecting an Allied soldier, this might perhaps be considered as a special reason for the case to be heard before an AM Court for, as you know, the offence of infecting another person with venereal disease is triable only on the "querela" of the person affected (Art. 54 C.P.), and it might perhaps be considered undesirable for an Allied soldier to appear in an Italian Court in the capacity of such a complainant.

We note that you have Directive AC/4022/1 of 19 April 44. The Italian law on prostitution is contained in the Codice Penale Arts. 531 et seq, Legge di Pubblica Sicurezza Arts. 190 et seq and in the Regolamento della Legge di Pubblica Sicurezza Arts. 345 et seq. See also Decreto Legislativo Luogotenentiale No. 323 of 12 Oct 44 which increases the penalty for keeping in unlicensed brothel and makes it an offence for any person to solicit for or assist in any way, the prostitution of another.

(2) No Directive has been issued to the effect that the possession of Allied cigarettes is not to be regarded as an offence unless the cigarettes were obtained from a civilian. Cigarettes are as much Allied Property as any other article. The action to be taken in such cases must depend on the particular circumstances of each case and no hard and fast rule can be laid down to say which cases should and which should not be presented.

(3) We enclose herewith a copy of a memorandum prepared and issued in June 44 by the 1st U.S. Army, which deals with the question of "Proper means of identification" that you raise in para 3 of your letter.

By command of Commodore GNSK :-

W. E. BURGESS,
Colonel,
Deputy Chief Legal Advisor.

57

Copy to: AC/4022/1.

HEADQUARTERS
 1st FIFTH ARMY (FIELD)
 LEGAL DIVISION
 APO 464 U.S. ARMY.

1 June 1944
 208/CA/7

SUBJECT : Proclamation No. 1, Art. V, Sec. 41 -
 Means of Identification.

TO : All SCAGOs and PCs Littoria, Rome Province, Viterbo
 (for Legal Officers).

1. Advice had been requested as to the effect of the above Section of new Proclamation No. 1 which provides that any person commits an offence who "fails to have in his possession at all times a proper means of identification as required by existing law". It will be observed that the express reference to an "identity card" which appeared in old Proclamation No. 2, Art. II, Sec. 41 and old Proclamation No. 11 Art. III is now omitted and is replaced by the wider term "means of identification".

2. Existing Italian law does NOT require possession of a "Carta di identità", except in the case of dangerous or suspected persons, who may be compelled by the police to hold such means of identification, and of persons employed in a few specified trades. Other citizens over the age of 15 can obtain a "carta di identità" from the Podestà of their Comune on request but are under no legal obligation to do so.

3. Regolamento di sicurezza pubblica No. 310 provides that a "Carta di identità" or equivalent documents of identification must be produced to the police on demand. "Equivalent documents" are defined as including any document carrying a photograph of the holder and issued by a State administration e.g. "libretto ferroviario" which is furnished to all civil and military state employees, "tessera di riconoscimento", tessera della M.V.S.N., driving licence, arms licence, passport or any other document in which the holder's identity is certified in writing by a department of the State administration.

4. It follows that no offence against Proc. No. 1 Art. II Sec. 41 is committed provided that the person concerned can produce some such "means of identification" as is indicated in the preceding paragraph. If it were desired to require all civilians

times a proper means of identification as required by existing law". It will be observed that the express reference to an "identity card" which appeared in old Proclamation No. 2, Art. II, Sec. 41 and old Proclamation No. 11 Art. III is now omitted and is replaced by the wider term "means of identification".

2. Existing Italian law does NOT require possession of a "Carta di identità", except in the case of dangerous or suspected persons, who may be compelled by the police to hold such means of identification, and of persons employed in a few specified trades. Other citizens over the age of 15 can obtain a "carta di identità" from the Podestà of their Comune on request but are under no legal obligation to do so.

3. Regolamento di sicurezza pubblica No. 310 provides that a "Carta di identità" or equivalent documents of identification must be produced to the police on demand. "Equivalent documents" are defined as including any document carrying a photograph of the holder and issued by a State administration e.g. "libretto ferroviario" which is furnished to all civil and military state employees, "tessera di riconoscimento", tessera della M.V.S.N., driving licence, arms licence, passport or any other document in which the holder's identity is certified in writing by a department of the State administration.

4. It follows that no offence against Proc. No. 1 Art. II Sec. 41 is committed provided that the person concerned can produce some such "means of identification" as is indicated in the preceding paragraph. If it were desired to require all civilians to be in possession of a "carta di identità" as distinct from other documents of identity, a specific order to this effect would have to be issued either in respect of a whole area or of particular Communes, breach of which order would then constitute an offence under Proc. No. 1 Art. V Sec. 41 or 42. In this connection, however, the administrative difficulties involved in providing and issuing individual identity cards with or without photographs to large numbers of people should not be overlooked, especially in the Army area where the population is widely scattered and communal organisation has temporarily broken down.

5. Legal Officers will be guided by the foregoing considerations in dealing with any charge preferred in the Army area under Sec. 41.

Copy to: G.L.O. HQ. AGO
HQ. Region 4
Public Safety Div.

H.M. DICKIE.
W/O. R.A.F.,
G.L.O. AMG 5 Army

(P.T.O.)

///.

238A

4002

HEADQUARTERS EMILIA REGION
ALLIED MILITARY GOVERNMENT
APO 394

WHI/dsh.

8 December 1944.

Ref : RIX/LE/203/109

SUBJECT : Directives.

TO : Deputy Chief Legal Advisor, Legal Sub-Commission, Headquarters,
Allied Commission, APO 394, U.S. Army.

1. Will you please send me any directives issued by the Legal Sub-Commission concerning trial of prostitution cases in AMG Courts. If no directives have been issued, please state the present policy. It is my understanding that such cases are not to be tried in AMG Courts. Is there any exception made in the case where a prostitute infects a soldier? I already have the directives and memorandum covering the trial of these cases in the Italian Courts.

2. Please also send any directives covering present policy as to whether possession of Allied cigarettes is treated as an offense. It is my understanding that such possession is to be disregarded except where the cigarettes were obtained from a civilian instead of a soldier.

3. Has anything been issued defining the term "proper means of identification as required by existing law" (Proc. 1, para. 41). If so, please let me have a copy thereof.

For the Regional Commissioner:

William H. Levitt
WILLIAM H. LEVITT
Major, J.A.G.D.
Regional Legal Officer.

→	Sub-Commission
	Chief Counsel
	CJO
	Italian Section
	CL RKS
	11 DEC 1944

55

HEADQUARTERS ALLIED COMMISSION

AFG 344

LEGAL SUB-COMMISSION

237A

JPM/ey.
8 December 1944.

SUBJECT : Establishment of Standing Court.

TO : S.C.A. . . 8th Army AMG (8th Army Rear).

1. Your letter of 27 November subject as above is acknowledged. My letter to you of 30 November 1944, same subject, had already left this HQ when your letter was received.

2. The following officers have been ordered to report to you on temporary duty status:

Col. H.G. WILLMER
Maj. G.S. PARLIN
Capt. S.L. PAYTON
Lt. W.H. CRAIG

Col. WILLMER to be President and Major PARLIN a member of the General Court. The third member of the court should be a lay member.

Capt. PAYTON and Lt. CRAIG may act as Prosecuting and Defence Attornies.

3. Would appreciate you advising me as to whether or not you need additional officers for the purpose of establishing another court.

By command of Commodore STONE:

acknowledged. The subject, had already left this HQ when your report received.

2. The following officers have been ordered to report to you on temporary duty status:

Col. H.A. WILLMER
Maj. G.S. PARLIN
Capt. E.L. PETERSON
Lt. W.H. CRAIG

Col. WILLMER to be President and Major PARLIN a member of the General Court. The third member of the court should be a lay member.

Capt. PETERSON and Lt. CRAIG may act as prosecuting and defence attorneys.

3. Would appreciate you advising me as to whether or not you need additional officers for the purpose of establishing another court.

By command of Commodore STONE:

54

W. S. BARRING, Colonel,
Deputy Chief Legal Advisor.

Copy to: AG/4000/L.
AG/4000/L.

236A

HEADQUARTERS ALLIED COMMISSION
APO 594
LEGAL SUB-COMMISSION

WFE/ra.
7 Dec 1944.

AE/4002/11.

SUBJECT : Cases under Italian Law.

TO : Regional Commissioner (Attn : Regional Legal Officer),
Southern, Lazio-Umbria, Tuscany, Emilia, Liguria, Piemonte, Abruzzi-Marche,
Lombardia and Venezia Regions.

1. In accordance with Consolidated Instructions Art. 52 all cases in which one or more of the charged is framed under Italian law will be reviewed at HQ AG.

2. The purpose of this rule is to ensure that there is available to the Reviewing Authority expert legal advice upon any question of principle or construction which may arise.

3. Any infringement of the Italian Law regulating rationing, etc, even if charged under Proc. 1 Art. V Sec. 14, is in substance a charge framed under Italian law. All such cases will therefore be reviewed at HQ AG.

4. It is pointed out that neither the review nor the trial can be satisfactory unless the charges sheet states the precise section of the Italian law which is infringed and the manner of its infringement.

By command of Commander SPORE :

W. E. SEPPERS,

Colonel,
Deputy Chief Legal Advisor.

HEADQUARTERS ALLIED COMBATANTS
APR 1944
LEGAL SUB-COMMISSION

235A
SUB/PO.
6 Dec 44.

AC/100/L.

SUBJECT : Witnesses.

TO : Regional Commissioner (for Regional Legal Officer),
Southern, Abruzzi-Marche, Lazio-Umbria, Toscana and
Belle Regions.

1. From records received at this HQ it is apparent that the rule excluding witnesses from the Court until they have given their evidence is not being complied with in all cases, particularly in regard to military witnesses.

2. It is specifically laid down in Consolidated Instructions Art. 20 (On Plea of Not guilty) p. 90 that "All witnesses should remain out of Court until they have given their evidence and should remain in Court thereafter during the hearing unless released".

3. Please ensure that this rule is adhered to in all future cases.

By command of Commodore STONE :

A. R. BIRCHALL,
Colonel,
Deputy Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APO 394
Legal Sub-Commission

/jpl

234A

AC/4002/L

5 Dec. 44

Subject: Summary of Allied Military Court Cases.

To : Deputy Chief of Staff and V.P. Civil Affairs Section.

Herewith figures on cases tried by Allied Military Courts.

(A) ESPIONAGE CASES

Total number spies tried.....	64
Spies acquitted.....	8
Death sentences (3 cases) awaiting receipt of petition.....	3
Death sentences imposed and executed or in process of being executed.....	29
Imprisonment sentences (or death sentences commuted).....	24
 TOTAL.....	64

64

(B) TOTAL CASES TRIED IN ALLIED MILITARY COURTS FROM JUL. 43 to 30 OCT. 44

Sicily.....	11,977
Region 2.....	1,110
Region 3 (Naples).....	29,578
Region 4 & Rome.....	2,133
Region 5.....	7,348
Region 8.....	2,853
Region 9.....	100
5th Army.....	1,139
3th Army.....	1,734
 TOTAL.....	57,972

51

I. Campbell
I.C.H. CAMPBELL
Lt. Colonel
Chief Judicial Officer

Copy to: DCLA
File 4083/1/L

File 4002

I 233A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4002/A1/L.

/rlp.
30 November 1944.

SUBJECT : Establishment of Standing Court.

TO : AMG, 8th Army.

1. The SCAG when recently in Rome, spoke to me about the establishment of a standing court in 8th Army Area to dispose of espionage cases and I promised to consider the question of available officers at a conference of Regional Legal Officers arranged for 29 November.

2. I find that, if necessary, I can make available for such a court all or some of the following personnel and possibly one or two others;

Col. M. G. Wilber
Lt Col Elder - subject to recall by PG, Liguria
Lt Col Mercer - " " " " Piemonte
Maj Oates
Maj Parlin
Maj Clerum - relatively inexperienced in AMG
Capt Peyton

3. Before taking any further steps, I would like to have it confirmed:

- a. That such a court is necessary, with available figures of the number of cases now pending and anticipated;
- b. What legal personnel you already have available for such a court;
- c. What extra personnel you will require;
- d. Where the court will be located. It should be established accessible to the prison in which the accused will be held.

4. It will be necessary to provide, for each case, a prosecuting officer, a defending officer, and three members of the court. The court should consist of at least two legal officers, but it is desirable from many points of view that the third member should be a lay member and preferably not an AMG officer.

5. If there are many cases to dispose of, it may be necessary to provide two prosecuting or defending officers; the court can then be in constant session and the prosecuting and defending officers can take alternate cases and when not engaged in court, can be preparing future cases. It is, therefore, imperative to make full use of any legal personnel you have available in your area.

6. A good interpreter will be essential. No doubt you will arrange for this?

By command of Commodore STONE:

W. E. DEHNKE,
Colonel,
Deputy Chief Legal Adviser.

Copy to: File AC/4040/L
File AC/4002/L

File 4002
11/10/44

222 F

INTER COMMISSION

IPC 334

OFFICE OF CHIEF OF STAFF

WHE/cp.
15 Nov 44.

SUBJECT : Publicity and Propaganda-Medical Proceedings.

TO

Regional Commanders, Sicily, Southern, Lazio-Umbria, (Abruzzi-Marche, Romagna, Toscana, Emilia, Romagna, Piemonte, Lombardia, Venezia, Venetia, Verona, Garda 5th and 6th Armies.

The following orders are issued by the personal direction of the Supreme Allied Commander and will come into force forth with.

1. Allied Military Courts.

(a) No camera or other photographic apparatus may be taken into any Court (except as an exhibit in a case) and no photograph moving or still or sound recording of any proceedings in such Courts or of any service personnel engaged in any capacity in such Courts will be permitted.

(b) The foregoing applies to Allied Military Courts in both Military and Italian Government territory.

2. Italian Courts.

(a) No camera or other photographic apparatus may be taken into any Court (except as an exhibit in a case) in Military Government territory and no photograph moving or still or sound recording of any such proceedings in such Court will be permitted.

(b) The Minister of Justice has been requested to issue a similar order in respect of Italian Courts in Italian Government territory and copies of his orders will be circulated to Regional Commissioners when received.

3. The Supreme Allied Commander has directed the issue of similar orders to all Allied commands.

The following orders are issued in the personal direction of the Supreme Allied Commander and will come into force forth with.

1. Allied Military Courts.

- (a) No camera or other photographic apparatus may be taken into any Court (except as an exhibit in a case) and no photograph moving or still or sound recording of any proceedings in such Court or of any service personnel engaged in any capacity in such Courts will be permitted.
- (b) The foregoing applies to Allied Military Courts in both Military and Italian Government territory.

2. Italian Courts.

- (a) No camera or other photographic apparatus may be taken into any Court (except as an exhibit in a case) in Military Government territory and no photograph moving or still or sound recording of any such proceedings in such Court will be permitted.
- (b) The Minister of Justice has been requested to issue similar orders in respect of Italian Courts in Italian Government territory and copies of his orders will be circulated to Regional Commissioners when received.

3. The Supreme Allied Commander has directed the issue of similar orders to all Allied command.

4. ROs and SCIOs will bring the above to the notice of:

- (a) all officers serving in their respective regions and particularly of those liable to hold Summary Military Courts or to serve as Presidents of any General or Superior Military Court who will be held responsible for seeing that the above direction is complied with in their Courts and
- (b) all Procurators General and Procurators General in Military Government territory within their respective regions.

Directive 20/1/CA Dated 31 May 44 (not issued to Regions Liguria, Piemonte, Lombardia, Venezia) is amended by these instructions.

BY ORDER OF THE CHIEF COMMISSIONER

J. R. [Signature]
G. R. [Signature]
G. R. [Signature]
G. R. [Signature]

File

230⁰ 228A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 594

/ya.
23 Oct 44.

ACC/4002/1.

SUBJECT : Port Courts- Piombino and Livorno.
TO : Regional Commissioner, Toscana Region.
(Attn. Regional Legal Officer).

1. I have been pursuing the question of the possible establishment of "Port Courts" of Livorno and Piombino, and I have today received the attached letter from Col. Claire, which is self-explanatory.

2. If you are keen for these courts to be established, no doubt you will get in touch with 10th Port. If you require any help from this HQ, please let me know.

BY COMMAND OF COMMODORE STUBBS :

W. E. HERRONS,
Colonel,
Deputy Chief Legal Adviser 47

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

WEB/ap.
22 October 1944.

ACC/4002/L.

SUBJECT : Evidence in Allied Military Court Cases.

TO : Regional Commissioners (Attn: Regional Legal Officers),
SICILIA, SARDEGNA, SOUTHERN, LAZIO-UMBRIA, ABRUZZI-MARCHE,
TOSCANA, EMILIA, LIGURIA, PIEMONTE, LOMBARDIA, VENEZIA RE-
gions, SCADA 5th and 8th Army.

Cases have come to notice in which officers prosecuting in AMG trials, and particularly in spy trials, have failed to bring before the Court all available evidence. The following instructions will therefore be brought to the notice of all officers who are called upon to prosecute in AMG Courts.

1. It is the duty of the prosecution to present to the Court all available relevant evidence whether such evidence is favourable or unfavourable to the accused.

2. On charges of espionage there are two elements to be proved :-

- (a) that the accused was engaged in the clandestine col-
lection of information; and
- (b) that he intended to communicate this information to
the enemy.

3. Both these elements are generally matters of inference. The Court cannot and should not be asked to draw such an inference without being in possession of all the available facts. It may not be sufficient to put in evidence a confession, even where that con-
fession admits attendance at a German spy-school and acceptance of a German mission. It is still necessary to call evidence, in as much as the subsequent movements, statements and 48

229A

Cases have come to notice in which officers have failed to bring in AMG trials, and particularly in spy trials, have failed to bring before the Court all available evidence. The following instructions will therefore be brought to the notice of all officers who are called upon to prosecute in AMG Courts.

1. It is the duty of the prosecution to present to the Court all available relevant evidence whether such evidence is favourable or unfavourable to the accused.

2. On charges of espionage there are two elements to be proved :-

- (a) that the accused was engaged in the clandestine collection of information; and
- (b) that he intended to communicate this information to the enemy.

3. Both these elements are generally matters of inference. The Court cannot and should not be asked to draw such an inference without being in possession of all the available facts. It may not be sufficient to put in evidence a confession, even where that confession admits attendance at a German spy-school and acceptance of a German mission. It is still necessary to call evidence, in as much detail as possible, of the subsequent movements, statements and conduct of the accused in order to prove the two essential elements, and particularly the second.

4. Sufficient copies hereof are forwarded to enable you to make distribution as above directed.

By Command of Commodore STONE:

for RICHARD H. WILLMER,
Colonel, GAC,
Chief Legal Advisor.

HEADQUARTERS
EIGHTH PORT OF EMBARKATION
OFFICE OF THE STAFF JUDGE ADVOCATE
APO 780

17 October 1944

SUBJECT: Port Courts - Piombino and Leghorn

TO : Colonel Richard H. Wilmer, CAC, Chief Legal Adviser
Headquarters, Allied Control Commission
Legal Sub-Commission
APO 394

1. Immediately upon my return to Naples, I laid plans for the organization of civilian Port Courts at Piombino and Leghorn. Upon receipt of your previous communication, I had made plans to contact the legal officer in the Region concerned. However, my organization was relieved of responsibility of the two ports in question and I then wrote the Commanding Officer of the 10th Port sending him copies of the letter received from you. I had assumed that the 10th Port would continue the matter.

2. Upon receipt of your communication of the 5th of October, I endeavored to contact the Commanding Officer of the 10th Port but was unable to do so until today. He informs me that he thought his Judge Advocate had attended to the matter. I had given the name of the proper officer to contact.

3. I regret that I could not have continued the work in Piombino and Leghorn. I know you will find the 10th Port most cooperative in every way.

LEGAL SUB-COMMISSION	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	

Guy S. Claire
GUY S. CLAIRE
Lt. Col., JAGD
Staff Judge Advocate

With you notifying 8.

21 OCT 1944

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

227A

ACC/4002/L ✓

10 Oct. 44

Subject: Summary of Allied Military Court Cases.

To : Deputy Chief of Staff and V.P. Civil Affairs Section.

Herewith figures on cases tried by Allied Military Courts.

(A) ESPIONAGE CASES

Total number spies tried.....	59
Spies acquitted.....	7
Death sentences awaiting confirmation.....	3
Death sentences imposed and executed or in process of being executed.....	20
Imprisonment sentences (or death sentences commuted.).....	29
TOTAL	59

(B) TOTAL CASES TRIED IN ALLIED MILITARY COURTS FROM JUL. 43 to 30 SEP. 44

Sicily.....	11,577
Region 2.....	1,110
Region 3 (Naples).....	28,632
Region 4 & Rome.....	2,133
Region 5.....	5,502
Region 6.....	1,564
5th Army.....	1,139
6th Army.....	1,734
Total.....	55,092

NOTE: The figure of 55,092 does not represent the total of cases tried in Italy affecting allied interests: In assessing that figure regard must also be had to all cases of this class tried by Italian Courts.

Copy to: CIA
LOLA
File 4083/1/L
Floatfile.

IC
I.O.H. CAMPBELL
Lt. Colonel
Chief Judicial Officer

44

file 4002

(226A)

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/10/11/1.

/rlp.
4 October 1944.

SUBJECT : Penalties under Italian law.

TO : Regional Legal Officer, SICILIA, SOUTHERN, LAZIO, ABRUZZI-MARCHE,
SARDEGNA, TOSCANA, EMILIA, LIGURIA, PIEMONTE, LOMBARDI and VENEZIA.

1. Art. 14, par. 3 of Consolidated Instructions for Allied Military Courts deals with trials in Allied Military Courts in which the charge is laid under Italian law and provides that in such cases the offence is punishable only as provided by Italian law."

2. In this connection your attention is drawn to the Penal Code, Art. 71 et seq and particularly to the following points:

- a. Concurrent sentences do not exist under Italian law;
- b. Where an accused is convicted of more than one offence and each of such offences carries a detentive punishment of the same kind, the Court must impose one term covering all charges on which he has been found guilty (see Art. 73);
- c. Clearly, such term must be not less than the aggregate of the minimum penalties, and not greater than the aggregate of maximum penalties, provided for such offences; nor must it exceed the limits laid down in Art. 78;
- d. Where an accused is similarly convicted, but the offences carry detentive punishments of a different kind (e.g., reclusiones, reclusiones militari, arresto and ergastolo), the Court must impose penalties of the different kinds separately and in full (see Art. 74).

3. Sufficient copies hereof are forwarded for distribution to FLOS.

for / Camp 1101
RICHARD H. WILMER,
Colonel, GAC.
Chief Legal Advisor.

43

225A

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

5 Oct. 44

AOC/4002/L

Subject: Port Courts - POMBINO and LECHORN

To : Lt. Col. G. S. Quainta, S.J.A.
8th Port of Embarkation
A.P.O. 730, U.S. Army

1. You will, no doubt, remember calling at this HQ on 29 Aug. 44 and asking whether it would be permissible for you to establish "Port Courts" at POMBINO and LECHORN.

2. By my letter to you AOC/4002/L of 5 Sep 44 I informed you that the Regional Legal Officer would be glad for you to operate these courts and at the same time I called your attention to certain points arising thereon.

3. In view of your inquiry and my answer, it was assumed that you would proceed to establish these Courts and our arrangements were made accordingly. I am informed, however, that no such Courts have been set up.

4. I will be pleased to hear as soon as possible when these Courts will be established. As reliance has been placed on them, it is hoped that this will happen in the very near future.

12
RICHARD H. WILMER
Colonel, GAC
Chief Legal Adviser.

42

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
PO 394

324A

WEE/pa.
22 Sept 44.

ACC/4002/L.

SUBJECT : Applications for conditional liberty in AMG Court cases.

TO : Regional Legal Officers (from Regional Commissioners) Regions I, IV, V, VI, VIII, IX, XI, XII; Southern, Piemonte and Liguria Regions.

1. Cases have occurred recently in which Italian judges have granted conditional liberty to persons convicted by AMG Courts. It is pointed out that during the continuance of the Allied Control Commission the Italian authorities have no jurisdiction to take such action. The position is clearly stated in the Ministerial Circular No. 26013 dated 24 April 1944 and addressed to all Procuratori Generali which provides that for the grant of pardon and conditional liberty

" Per i reati giudicati dai Tribunali Alleati, sia in territorio occupato che non occupato, la competenza spetta al Governo Alleato " .

(Offences tried by Allied Military Courts either in occupied or unoccupied territory will fall within the jurisdiction of the Allied Government).

2. This position is also clearly defined in para 2 of the Chief Legal Officer's Directive of 28 April 1944 reference as above.

3. Persons who have been convicted by AMG Courts but are serving their sentence in territory which either was at the time of conviction or later becomes Italian Government Territory do in fact submit petitions to the Minister of Grace and Justice. These cases are and, during the continuance of the Allied Control Commission, will continue to be referred by the Minister to the Legal Sub-Commission.

4. Executive Memorandum No. 72 para 2 (c) (i) and Consolidated Instructions Art. 26 (i) (c) provide that in the case of long sentences the Italian practice may operate and conditional liberty may be granted after a portion of the sentence has been served.

5. This is no departure from the principles expressed above and simply refers to the fact that after the Peace Treaty and/or the cessation of ACC the Minister of Justice will, in the absence of stipulation to the contrary, have full authority to deal with any application for pardon and conditional liberty in accordance with the normal Italian usage provided of course that he respects the integrity of the original sentence as if it had been imposed by an Italian Court. 41

RICHARD E. WIMMER,
Colonel, SAC,
Chief Legal Officer.

Copy to : ACC/4002/L.

4002

223A

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4159/L.

/r/p.
11 September 1944.

MEMO TO: Colonel Gripps.

The question appears to have been raised as to whether AMG Courts should try partisans for murders of fascists such murders having been committed prior to occupation. While the occupying power may try in its courts crimes committed before occupation, because after occupation there is a dual court system, it has not been the practice since the early days of Sicily to try cases where crimes have been committed before occupation where civilians alone are involved. As a matter of fact, it has not generally been the practice in the many months for AMG Courts to try cases involving crime where the Allied interests, property or personnel, have not been affected irrespective of when the crime was committed. It seems, therefore, to me, that these cases must be left to the Italian Courts to deal with whether the crime was committed before or after occupation.

RICHARD H. WILMER,
Colonel, CAC,
Chief Legal Officer.

Copy to: ACC/4002/L.

40

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4002/L

5th September 1944

Subject: Port Courts - PIOMBINO and LEGHORN

To : Lt.Col.G.S.Claire, S.J.A.,
8th Port of Embarkation.
A.P.O. 780. U.S.Army.

1. We have now heard from the Regional Legal Officer, Region VIII, that he will be glad for you to operate the port courts at PIOMBINO and LEGHORN on the lines previously operated in NAPLES.

2. He does, however, draw your attention to the following points :-

- (a) Officially the officers concerned must be appointed to their courts by the Provincial Commissioner or SCAO concerned. Please therefore forward to RLO Region VIII the names of these officers as soon as possible.
- (b) The courts will operate under the supervision of RLO Region VIII and this supervision will be exercised through the Provincial Legal Officers concerned.
- (c) Since the forms used by you are understood to differ from the normal ACC court forms it is suggested that you submit to RLO Region VIII copies of these forms for his approval.

RICHARD H. WILMER,
Colonel, C.A.C.
Chief Legal Officer.

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
REGION VIII

3 September 44.

RWMT/17/3004.

SUBJECT : Port Courts.

TO : CLO, Legal Sub-Commission, AGC.

1. Reference is to your AGC/4004/1 of 29 Aug. 44.
2. No objection is seen to the establishment by PBS of Summary Port Courts at FIORENZO and LIVORNO on the lines of that hitherto operating in NAPLES, subject to the comments made below.
3. It is understood that the officers necessary to man these Courts will be provided by PBS. It will be necessary for these officers to be appointed by the Provincial Commissioner or SCAG concerned. Accordingly it will be appreciated if the names, etc. of the officers to be appointed can be furnished to these Headquarters as soon as possible.
4. With regard to the last paragraph of your letter it is, of course, essential that these Courts should be under the supervision of this Headquarters. This supervision will be exercised through the Provincial Legal Officers concerned. The officers to be appointed to the Port Courts should be instructed to contact the PLO as soon as possible.
5. It is understood that the Port Court at NAPLES has been using special mimeographed forms. These forms should be submitted to this Headquarters for approval.

LEGAL SUB-COMMISSION

CLO

DCLO

Chief Counsel

CJO

Italian Section

C. RKS

JOHN H. HERR,
Colonel, Inf.
Regional Legal Officer

38

Note.

Answer to this letter to be sent to:-
LTCD G. S. CLAIRE
S. J. A.

8th Port of Embarkation
A.P.O. 780
U.S. Army.

(When Claire asks that the
answer be sent as soon
as possible) 

4002 (220A)
1R
29 Aug.

37

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4002/L.

29 August 1944.

SUBJECT :

Port Courts.

TO :

Regional Legal Officer (thru Regional Commissioner), Region 8.

1. At the time of writing this letter I have with me Lieutenant-Colonel CLAIPE, who has for some weeks been running the Port Court at NAPLES.

2. He is Judge Advocate of 8th Port and as such is responsible for PIOMBINO and LEGHORN. He is anxious to set up in these two towns a Port Court similar to that which has been operating in NAPLES. As these two places are within your region I shall be grateful if you will inform me as soon as possible if you will be agreeable to Lieutenant-Colonel CLAIPE carrying out his suggestion.

3. If you agree Lieutenant-Colonel CLAIPE will provide the officers to preside and any necessary clerical staff.

4. The Colonel understands that as these Courts will be operating in your region they will be under your general supervision.

IGH/vow.

File

I.G.H. CAMPELL.
Lieutenant-Colonel,
Chief Judicial Officer,
for Acting Chief Legal Officer.

36

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ADS/4002/L.

/rlp.
28 August 1944.

SUBJECT : AMG 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 the 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 fulfils 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. Wilmer
RICHARD H. WILMER,
Colonel, CAC,
Acting Chief Legal Officer.

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

~~44002~~ Legal 4502

2188
29.8.44

Has been made

copy

Distribution,

Will you please distribute
as follows.

Regional Legal Office	Region 1	15 Copies.
" " "	Region 2	22 "
" " "	Region 4	20 "
" " "	" 5	10 "
" " "	" 6	5 "
" " "	" 8	10 "
" " "	" 9	10 "
" " "	" 10	10 "
Senior Civil Affairs Officer	5 Army	2 "
" " "	8 "	2 "
"RC" TM G. Section.		8 "

141 "

Reg 12 20
131 31

131

Also 20 copies to RLO REGION 12

2nd Floor. Room 6

Whites of Camp 3. Room

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
AP O 394

ACC/4002/L.

4 AUG 44.

SUBJECT : Powers of FLOs for release of prisoners pending review.

TO : Regional Legal Officers, Regions 3, 4, 5, 8, 9 & "Z".

1. At the conference of FLOs held at HQ ACC on 1 August 44 the point was raised that in cases where a short term of imprisonment is imposed, the term (or at least a substantial part of it) is frequently served before the Decision on Review can be communicated and thereby an injustice is caused if the reviewing authority considers the conviction wrong or the sentence excessive.

2. The point is one of substance, but it is not the policy to delegate the power of review below Regional H.Q. To meet the point Regional Legal Officers are authorised to instruct Provincial Legal Officers as follows :

3. (a) In any case in which a sentence of imprisonment of three months or less has been imposed by a Summary Military Court, a Provincial Legal Officer may order the release of the accused pending receipt of the Decision on Review if he is of opinion:-

- (i) that the accused has been wrongly convicted; or
- (ii) that the term of imprisonment will be reduced on Review to a period less than the time necessary to obtain a Decision on Review.

(b) Any such release will be on such terms and subject to such conditions as, in the opinion of the Provincial Legal Officer, are adequate to ensure the availability of the accused upon receipt of the Decision on Review.

(c) This power is discretionary; it will be used sparingly and only in cases where the opinion of the Provincial Legal Officer it is necessary to avoid a substantial injustice.

217A

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(c) This power is discretionary; it will be used sparingly and only in cases where the opinion of the Provincial Legal Officer it is necessary to avoid a substantial injustice.

(d) In any case in which this power is exercised the Provincial Legal Officer will endeavour to forward the Record with any petition for Review as soon as possible and, in so forwarding it, he will specifically inform Regional HQ of the action taken by him so that the case may be promptly reviewed.

Completed 17 Oct
 RICHARD H. WILMER,
 Colonel, CAC,
 Acting Chief Legal Officer.

Copy to : RLOs Regions 1, 2, 6, & 7.

File

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

31 JUL 1944

30 July 1944.

Tel. Ext. 563.

ACC/4002/L.

SUBJECT : Review of Sentences of A.M. Courts - Army Areas.

TO : C.S.O., Administrative Section.

1. In army areas so long as S.L.Os were present they performed review functions in connection with A.M. Court cases.

2. As the S.L.Os will be withdrawn as of August 1 it would seem natural that the reviews should henceforth be under the charge of the RLO of the particular region ^{introduce} ~~the~~ the particular army area ~~under which they will~~ fall. However, it appears that the two armies have put a strict embargo against the communications between specialists at Regional HQ and the specialists in army areas.

If this was strictly adhered to the review of Allied Military Court cases could not take place and it is necessary that the reviews be promptly made. I therefore suggest that at the meeting on Wednesday at HQ, AAI, you discuss this matter and request that legal officers in army areas be permitted to send to the RLOs of the particular regions into which the particular territory will fall cases for review as if, for this purpose only, the particular army area was already under Regional control.

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

32

*Col. Giff: This in memo form will
save you the list of my request &
yesterday P.H.C.*

2163

HEADQUARTERS
ALLIED CONTROL COMMISSIONDate 14 Aug. 44

Suspense _____

FROM	TO	FROM	TO
Chief Staff Officer		Patriots Branch	
Secretary General		Security Branch	
Archivist		Establishments Branch	
✓ Admin Section		Director	
Interior		Executive Officer (A)	
Public Safety		Executive Officer (B)	
Public Health		G-1 (A)	
Property Control		G-1 (B)	
Legal	✓	G-4 (A)	
Education		G-4 (B)	
Monuments & Fine Arts		H.Q. Comdt	
Economic Section		Adjutant	
Agriculture		Message Center	
Commerce		Orders & Bulletins	
Finance		2675 Regt	
Food		Political Section	
Industry		Navy	
Labor		Army	
Mining Division		Air	
Public Works & Utilities		Communications	
Requisition Division		Civil Censorship Group	
Shipping		W. M. D. & P. O. W.	
Transportation		Public Relations Branch	
R.C. & M.G. Section		U.N.R.R.A.	
P.A. to Executive Commissioner			
Civil Affairs Branch			
Information Division			
Liaison Division			
I. & D.P. S.C.			
Italian Refugees Branch			

FOR

Signature _____
 Remarks/Recommendation ✓
 Information _____
 Approval/Disposal ✓
 Appropriate Action _____
 Investigation & Report _____
 Dispatch _____

REMARKS

This procedure was agreed by I.C.A.O's 8 & 5 Agents
 and the R.C. III IX & 2 at the meeting at AA.1
 on Aug. 2.

✓ W. H. Giff
 Col.

Copy to file 00021
 CONFIDENTIAL

ALLIED STATES
 ALLIED CONTROL COMMISSION
 JOINTS SECTION
 LPO 594

ACC/4016/5/L.

SUBJECT : Trial and possible internment of accused in connection with security offences. /rlp.
29 July 1944.

TO : Regional Legal Officers (THRU: Regional Commissioners),
 Regions I, II, III, IV, V, VI, VII, VIII, IX, Z, RAIL Region and
 PLO Region (THRU: PO).

1. When persons are brought to trial on charges of some serious security offence such as espionage, sabotage or major subversive activities, it must be clearly understood by all concerned that all evidence required to support the prosecution's case must be given in court (a closed court may be ordered) and that full right of cross examination of witnesses on all relevant matters in the presence of the accused and their counsel must be permitted.

2. In the event that a substantial number of persons are involved in one particular offence and it does not appear that a reasonably strong case can be made against some of them or if they were found guilty sentences would likely be light, generally only the ring-leaders should be tried, the remainder being interned, if this is required by the security agencies, and not tried. The reason for this is that, where there are many accused each with his own counsel, the trial is unduly prolonged and complicated with no real substantial end accomplished as to the doubtful or minor offenders; with the limited personnel now available for Allied Military Courts it is obvious that long trials must be avoided whenever possible.

3. When such persons are brought to trial for such an offence, it is frequently necessary for reasons of security that such persons should be interned after the conclusion of the trial even in the event of their acquittal.

4. In such cases, the fact that the accused is not set at liberty when acquitted is liable to create an unfortunate impression. It is realized, however, that the requirements of security must override this consideration, and in order to dispell or forestall any misunderstanding or undue criticism, the following procedure should be followed.

5. When the HQ or security Agency which is responsible for bringing the case to trial considers that the accused should be interned even in the event of acquittal, this fact will be notified before the commencement of the trial to the President of the Court and to any other HQ/RA officers who may be

3

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a. When the HQ or security agency which is responsible for bringing the case to trial considers that the accused should be interned even in the event of acquittal, this fact will be notified before the commencement of the trial to the President of the Court and to any other AGO/JMG officers who may be directly concerned with the case. It will then be made quite clear to the accused, at the opening of the Court, that, if he is acquitted of the charges preferred against him, he will nevertheless be interned immediately after the trial, as he is considered a danger to Allied security. It will be explained to him that internment is distinct from imprisonment.

b. At the conclusion of the trial it will be the responsibility of the HQ or security agency concerned to arrange for the accused, after his acquittal, to be moved under escort from the Court to the nearest PW Camp or Camp for evacuation to 571 PW Camp. He should NOT be returned to prison.

6. HQ AII under date of 19 July 1944 has issued a memorandum covering the contents of paras 3, 4 and 5 foregoing.

Richard H. Wilmer

RICHARD H. WILMER,
Colonel, GAO,
Acting Chief Legal Officer.

CONFIDENTIAL

214A

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

ACC/4002/L

26 July 44

Subject: Judgment of Court in Cases under Italian Law.

To : RLO's (thru R G's) Regions 1,2,3,4,5,6,7,8, & Rome Region.
SLO's AMG, 5th and 8th Army
PLO (thru FC) Foggia Province.

1. When any person is convicted by an Allied Military Court of an offence under Italian Law, it is imperative that the Court should annex as part of the Record a short judgment setting out briefly

- (a) the findings of the Court on questions of fact which may amount to mitigating or aggravating circumstances
- (b) the provision of law under which the accused was convicted including any aggravating or mitigating circumstances which have been taken into consideration in deciding the sentence of the Court.

2. Unless the above is complied with it is impossible to carry out a proper review: e.g. a case recently came up for Review, accompanied by a petition alleging that the sentence was above the permitted maximum in view of the existence of certain mitigating circumstances. The existence (or otherwise) of these mitigating circumstances was a pure question of fact: but the record on its face did not show that the Court had addressed its mind to, or decided on, this question of fact.

3. Please ensure that this is communicated to all officers concerned. It applies equally to trials in Military Government Territory and to any trials which may be ordered by this H. C. in Italian Government Territory.

Richard H. Wilmer

RICHARD H. WILMER
Colonel, G.C.
Acting Chief Legal Officer

(213A)

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

24 July 1944.

ACC/4002/L.

SUBJECT : AMG Courts in Naples Command.

TO : Acting R.L.O. (thru Acting Regional Commissioner), Region 3.

1. Reference your L-2210 dated 21 July 1944.

2. I approve entirely of the programme outlined in paragraph 3 of your letter. Naturally it will be necessary for one of your officers to instruct the Italian Courts when necessary and to see that they properly dispose of the cases so assigned for trial. Likewise it is important for such officer to follow the cases from the standpoint of sentences so that we may be assured that the sentences imposed by Italian Courts are made to measure up with those that would be given under the same circumstances by A.M.C. Courts.

3. As to what you state in paragraph 4 of your letter, I believe you misunderstand the directions contained in paragraph 5 of Executive Memorandum No. 68. In the first place presumably you would not issue a Regional Order relative to transfer of additional cases to the Italian Courts, that being merely a matter for you to decide in conference with your legal officers. Secondly the provision referred to was to prevent the issue of Regional Orders which in specific language provide for the trial of the Regional Order offense by either Allied Military Court or Italian Court. While there is some ground for taking the position that if an Italian Court takes jurisdiction of a case it tries it on the basis of a violation of an A.M.C. Order rather than corresponding Italian Law nevertheless the better thought is that in Italian Courts cases should be tried under corresponding Italian Law.

216

RICHARD H. WILMER,
Colonel C.A.C.,
Acting Chief Legal Officer.

RHW/vww.

4002

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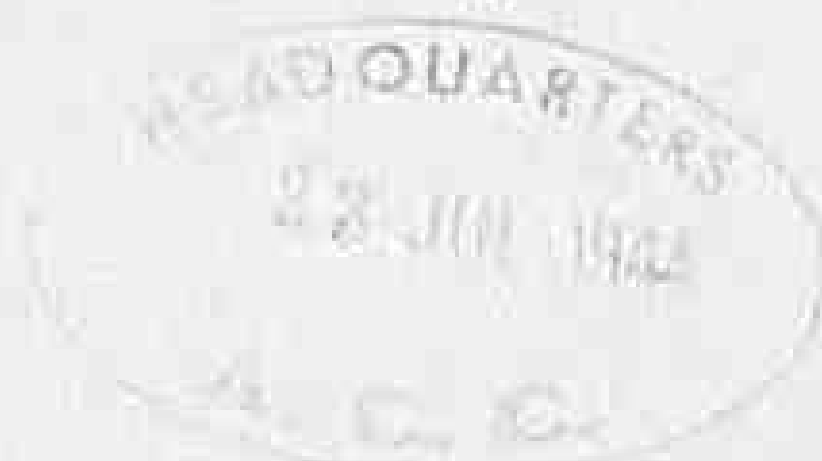
HEADQUARTERS
REGION 3, ALLIED CONTROL COMMISSION
APO 394, U.S. Army

L-2210

21 July 1944

SUBJECT: AMG Courts in Naples Commune.

TO : CLO, Legal Sub-Commission, ACC.



1. In view of the impending further reduction of the legal officers in this Region it is essential to reduce further the load carried by AMG Courts in the Commune of Naples.

2. The transfer of cases to the Italian Courts effected by Administrative Instruction No. 45, dated 15 June 44, has already removed a large number of cases from AMG Courts but there still remain in Naples Commune some 20 Summary Court cases a day apart from the Port Court. If these are to be tried by AMG courts it will mean that one officer's time will be devoted entirely to the trial of these cases and he will have to be assisted, part time, by another. This will amount to a large proportion of the remaining strength of this Division.

3. It is accordingly recommended that every charge of an offence against any AMG Proclamation or Order occurring in the Commune of Naples be tried by an Italian Court unless the charge is, in the opinion of a judicial officer or a public safety officer of AMG (to be given on the facts before him), sufficiently serious to warrant the charge being laid directly before a Superior Military Court or a General Military Court.

4. Having regard to paragraph 5 of ACC Executive Memorandum No. 66 dated 4 July 44, reference 17/43/CA, the approval of ACC is necessary to the recommendation set out in para 3 above. May this approval be given please.

For the Regional Commissioner:

Gasquet

G.A. BARLET,
Major, G.I.,
Actg. Reg. Legal Officer.

GAB/no

CLO	
DCLO	
Chief Counsel	
CO	
Italian Section	

TO : All Legal Officers, Region IV
FROM : R.I.O., Region IV

LEGAL INSTRUCTIONS NO. 7

June 1944

74. Punishment of Military Offenders

The Legal Sub-Commission, A.C.C., has requested that it be informed of all cases arising in which Allied Military personnel are tried in respect of Black Market offences or other offences involving relations with the Italian people. Provincial Legal Officers will therefore report to the R.I.O. any such cases that come to their notice, giving the names of the personnel concerned, their units, the nature of the offence, the punishment awarded, and any comments it is desired to make on the adequacy or otherwise of the punishment.

75. Construction of Proclamation 1.

The following directive has been received from the Chief Legal Officer, Legal Sub-Commission, A.C.C., and is brought to the attention of all legal officers:-

"1. The point has been raised as to the proper construction of the words "or similar war supplies" in Section (5) of Article I of Proclamation 2 (old series) and Section (5) of Article IV of Proclamation I (new series). Therefore, the following ruling is given on the point and copies hereof are being supplied according to the figures given by addressees for technical directives.

"2. The words "similar war supplies" in the above context will be construed as follows:-

(a) To include war supplies of an explosive nature (e.g. grenades).

(b) To include war supplies which, though not of an explosive nature, are designed or intended as weapons (e.g. a bayonet or dagger issued to any troops).

(c) To exclude all other war supplies and all

Let the file
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acc 11080/10
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(file 10)
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sired to make on the adequacy or otherwise of the punishment.

75. Construction of Proclamation 1.

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"2. The words "similar war supplies" in the above context will be construed as follows:-

(a) To include war supplies of an explosive nature (e.g. grenades).

(b) To include war supplies which, though not of an explosive nature, are designed or intended as weapons (e.g. a bayonet or dagger issued to any troops).

(c) To exclude all other war supplies and all knives daggers and similar weapons which are not "war supplies" i.e. which were not an issue to troops.

"3. For this purpose, it is immaterial by what country the weapon was issued e.g. it is an offence to have in possession a grenade or bayonet be it Allied, Italian or German.

18 May 44

/s/ I. Campbell, Major
GERALD R. URJOHN
Colonel,
Chief Legal Officer."

76. Court Record of Punishments.

(a) The following procedure has been agreed between the Legal Division and the Public Safety Division, and identical instructions are being circulated to all Public Safety and Police Officers.

(b) The object is to ensure that all orders made by an Allied Military Court are in fact carried out--i.e. that fines are paid, that persons condemned to imprisonment do

actually reach the prison, or that persons ordered to be released are in fact released.

(c) For this purpose there will be maintained in each Summary Court a book containing a record of all punishments inflicted by the court. Pro forma of the book is annexed hereto as Appendix I. Copies of books are being circulated by the Public Safety Division to all Provincial Commissioners for distribution to Courts.

(d) The first group of columns will be entered at the time of trial by the prosecutor, or if more convenient by the judge's clerk; but must be initialled personally by the judge. These columns record the case No., the name of the accused and the punishment actually awarded.

(e) The case No. will be the number allotted by the prosecutor or by the representative of the police at the time of the arrest or issue of the summons,

and this number should already be entered in the top right-hand corner of the summons or charge sheet. (Note. It does not follow that cases will be tried in the exact order in which they arise, and consequently it cannot be expected that case numbers will necessarily run consecutively in the book.)

(f) As stated in the Consolidated Instructions it will be necessary for the judge to complete Form 6 in every case in which an accused is sentenced to imprisonment. Similarly, in every case in which an accused already under arrest is to be released, a Form 12 must be completed.

(g) On receipt of a prisoner, or group of prisoners, the prison officer will make a return to the Court; on the pro forma annexed as Appendix II, acknowledging receipt of the prisoner or prisoners. Similarly upon the release of a prisoner (whether on acquittal or on completion of sentence) the prison officer will make a return to the Court on the pro forma annexed as Appendix III.

(h) On receipt of these forms from the prison, the Prosecutor will satisfy himself that the Court's orders have in fact been carried out, and the necessary entry will be made in the subsequent columns of the Court Record Book in respect of each case.

(i) Similarly, where the sentence of the court con-

which they arise, and consequently that case numbers will necessarily run consecutively in the book.)

(f) As stated in the Consolidated Instructions it will be necessary for the judge to complete Form 6 in every case in which an accused is sentenced to imprisonment. Similarly, in every case in which an accused already under arrest is to be released, a Form 12 must be completed.

(g) On receipt of a prisoner, or group of prisoners, the prison officer will make a return to the Court of the pro forma annexed as Appendix II, acknowledging receipt of the prisoner or prisoners. Similarly upon the release of a prisoner (whether on acquittal or on completion of sentence) the prison officer will make a return to the Court on the Pro forma annexed as Appendix III.

(h) On receipt of these forms from the prison, the prosecutor will satisfy himself that the Court's orders have in fact been carried out, and the necessary entry will be made in the subsequent columns of the Court Record Book in respect of each case.

(i) Similarly, where the sentence of the Court consists in, or includes, a fine, the payment of the fine will be entered in the book, immediately on payment if the fine is paid to the Court, or on receipt of notice from the Finance Office where, as in large centres like Rome, it may be necessary to establish a central office for the payment of fines.

(j) For easy reference afterwards it is necessary, when completing Form 6 or Form 12, that the judge endorse in the top right-hand corner (a) the case No. allotted by the Police and (b) the book, page and line of the entry in the Court Book -- e.g. "1/10/4", meaning Book 1, Page 10, Line 4.

(k) Similarly all records of cases forwarded to the R.L.O. for examination and review (i.e. Forms 2, 4 or 8, whichever is used, and Form 11 in case of Petitions) will be endorsed in the top right hand corner with the case No. and the Book, page and line of the Entry in the Court Record Book. This will afford means of easy reference in case of future correspondence and when the decision on review is received.

(1) General Courts and Superior Courts, keep their permanent records, will not maintain Court Record Books of their own. The records of punishments inflicted by the and of the carrying out of such punishments, will be entered by the prosecuting officer in the Court Record Book of the Summary Court whose Court room is used for the hearing of the General or Superior Court.

77.

Publicity and Propaganda.

The taking of photographs; moving or still, of any proceedings of an Allied Military Court or of any serving personnel engaged in any capacity in such proceedings or the taking of a sound recording of any such proceedings will not be permitted.

H. E. Wilkner

Colonel,
Regional Legal Officer, Region IV

PSL Form 10

Record of Sentences Imposed by Allied Military Court -- Officer Presiding

Court Case No.	Defendant		Date Sentence Imposed	Prison Sentence (Exclusive of Default Sentence)	Date to Commence	Fine or Forfeiture	Date Fine to be paid	Default Sentence	Name	
	Last Name	First Name							Court's Initials	Date Fine or F. Paid
									1	
									2	
									3	
									4	
									5	
									6	
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Appendix 1.

ary Court — Officer Presiding

[illegible]

CONFIDENTIAL

Deliver by

10/16

4002
ADVANCE HEADQUARTERS
ARMED CONTROL COMMISSION
Legal Sub-Commission
AFC 394

210A
RHW/jpi

ACC/ACC2/L

10 July 44

Subject: A. M. Courts.

To : Regional Legal Officer, (thru H.C.) Base Region.

Until further instructions Captain HOWELL-JONES will not participate in the activities of any A.M. Courts either as Member, Prosecutor or defending officer.

RICHARD H. WELDER
Colonel, GAC
Acting Chief Legal Officer.

CONFIDENTIAL

File

NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
A.P.O. 394

209A

GRU/esp

ACC/4002/1

18th June 1944

Subject: Trials in A.M.C. Courts

To : S.L.C. 5th Army
(for transmission to Lt.Col. Michie, GAO, attd. C.E.F.)

1. Confirming conversation, Col. Upjohn - Lt.Col. Michie recently
I wish to assure you

- (a) That Allied Military Courts try cases involving Allied personnel and interests impartially whichever of the Allied Forces are involved and that no distinction is made between whether an injury be done to a British, U.S., French or other personnel.
- (b) The principles on which the Court acts are set out in the Consolidated Instructions for Allied Military Courts. In particular everyone tried before the Court is (unlike the presumption of guilt at the trial under continental systems) presumed innocent until he is found guilty beyond a reasonable doubt and the sentence, where the accused is found guilty, is appropriate to all the circumstances of the case: see the principles fully set out in Art 26 of the Consolidated Instructions. There is no question of a Court erring on the side of leniency or on the other hand of undue severity. The sentence is made appropriate in each case bearing in mind the necessity for a deterrent sentence.

G.P.H.
G. R. UPJOHN,
Colonel,
Chief Legal Officer.

Original sent per Lt Col Hamnford

4002.9 file

208A

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

Ref/20/1/CA

31 May 1944

SUBJECT: Publicity and Propaganda.

TO : R.C.'s Regions I, II, III, IV, V, VI and VII.
SCAO's, AMG 5th and 8th Armies.

1. The taking of photographs, moving or still, of any proceedings of an Allied Military Court or of any service personnel engaged in any capacity in such proceedings or the taking of a sound recording of any such proceedings will not be permitted.

2. R.C.'s and SCAOs will please bring the above to the notice of all officers serving in their respective regions, and particularly to those liable to serve as President of any General or Superior Military Court, who will be held responsible for seeing that the above direction is complied with in their courts.

3. An addition to the Consolidated Instructions for Allied Military Courts will be published in due course.

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

Copy to:

R.C.'s Regions VIII and IX.
Public Relations Officer
Admin Section (for Legal Sub-Commission)

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

DATE 10-10-04 BY 1045

TO: C.I.O., H.Q. A.C.C. (Rear)

1. Copy for dissemination.

EDWIN J. MURGER, Maj. Gen.
SENIOR LEGAL OFFICER AMOS, 8th ARMY
HQ: P.O. CHINA Province. (attn P.L.O.).HQ AMOS
Rear

CA/13

15 May 44.

C.S. T. T. T.

File 12

(207A)

I. Attached are 3 cases tried before one of your Summary Courts together with your respective comments thereon.

2. I endorse these comments. In former cases heard by this officer and reviewed by me it has seemed that the sentences were inadequate.

3. The question asked by the court in the JOTTI MARIO case is particularly disturbing. He says "If Army personnel can not be controlled how can AMG be expected to control civilian personnel?"

4. The answer is simple. By AMG courts imposing sentences of sufficient severity that some will deter others from acquiring W.D. property.

5. Undersigned has tried or supervised the trial of thousands of such cases within the past 10 months. During that entire time, all through Sicily and Italy troops have been scattering W.D. property about the countryside in violation of Army regulations and published orders. That such practice impedes our war effort is not a matter of argument, it has been so stated by Commanding Generals whose command embraces both troops and AMG.

6. On two different occasions, to the knowledge of undersigned, Eighth Army Routine Orders have carried a stern injunction to troop commanders to discipline personnel who violate regulations by selling, bartering or giving away W.D. property.

7. Undersigned has visited several times the A.C.C., Eighth Army, in company with other officers of this HQ and on one occasion in company with the C.I.O., for the purpose of discussing this problem, emphasizing the widespread disregard of regulations as discovered by AMG courts and asking for greater efforts on the part of troop commanders to control the troops. Each of such visits has resulted in action tending to reduce such violations. In view of the foregoing, the question of whether or not troop commanders are doing their full duty is not properly a subject of debate or criticism on our part. They have their own problems.

8. Upon first occupation of your Province this HQ presented to the acting Archbishop a letter setting forth certain violation offenses, such as wire cutting and possession of W.D. property, which our experience had shown would likely be committed by his people without their appreciation of the seriousness of the offense or of the severity of the punishment which

Loyal (Clean)

0620 ✓

C.S.O. - Love

17/3

4. The answer is simple. By MG courts imposing sentences of sufficient severity that same will deter others from acquiring W.D. property.

5. Undersigned has tried or supervised the trial of thousands of such cases within the past 10 months. During that entire time, all through Sicily and Italy troops have been scattering W.D. property about the countryside in violation of Army regulations and published orders. That such practice impedes our war effort is not a matter of argument, it has been so stated by Commanding Generals whose command embraces both troops and MG.

6. On two different occasions, to the knowledge of undersigned, Eighth Army Routine orders have carried a stern injunction to troop commanders to discipline personnel who violate regulations by selling, bartering or giving away W.D. property.

7. Undersigned has visited several times the A.S.G., Eighth Army, in company with other officers of this HQ and on one occasion in company with the C.L.O., for the purpose of discussing this problem, emphasizing the widespread disregard of regulations as discovered by MG courts and asking for greater efforts on the part of troop commanders to control the troops. Each of such visits has resulted in action tending to reduce such violations. In view of the foregoing, the question of whether or not troop commanders are doing their full duty is not properly a subject of debate or criticism on our part. They have their own problems.

8. Upon first occupation of your Province this HQ presented to the Acting Archbishop a letter setting forth certain proclamation offences, such as wire cutting and possession of W.D. property, which our experience had shown would likely be committed by his people without their appreciation of the seriousness of the offense or of the severity of the punishment which would follow. He in turn wrote a communication to each Priest within his Archdiocese warning of the seriousness of the offenses and their consequences. This letter was read in every church in every Mass every day for two weeks. This is standard operating procedure of this H.Q. upon occupation of new territory.

9. MG officers acting as Summary Courts within Eighth Army areas are sitting in the capacity of Army officers and their duties and obligations are entirely different from those of a civil judge at home. They are subject to orders which must be obeyed.

10. These orders are to impose sentences which will be a deterrent to others. The objective is to further the success of the campaign. If an officer cannot find it in his conscience to carry out such orders he should be relieved from duty as a Court Officer. This H.Q. should be advised in such instances in order that such relief may be effected by the Officer Commanding.

11. This subject has been dealt with at some length for the information and guidance of all officers sitting as Courts or as members thereof while under Command of this H.Q.

HEADQUARTERS

10 MAY 1944

Edwin J. Marner, Maj. Gen.
Senior Legal Officer

CONFIDENTIAL

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

GRU/ap

ACC/4002/L

12 May 1944

SUBJECT : Allied Military Court Judges.

TO : Regional Legal Officer (thru RC), Region III.

1. I understand that Captain Aranson is still sitting as a Judge in Naples Province, although I gave instructions previously that he was not to continue to sit.

2. Please arrange for him to be relieved of his present duties as soon as possible.

G. R. UPJOHN,
Colonel,
Chief Legal Officer.

16

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

IGHC/sg

205A

ACC/4002/L

12 May 1944.

TO : Col. WEBER
Provincial Legal Officer
Naples

Dear,

Further to our conversation in Naples a day or two ago. The Chief Legal Officer has the question of your extra transport very much in mind. He is awaiting your report as to alternative accommodation (he understands you have inspected the Albergo dei Poveri) and is then going to take up both questions together with the Chief Commissioner.

I have also discussed with the CLO your ideas as to maintaining the Allied Military Courts in Naples with personnel supplied by P. B. S. For reasons which it is not for me to go into here, it has been decided that such a solution is not acceptable and that the progressive transference of more and more work to the Italian courts must be accepted and proceeded with as quickly as possible.

The whole question of prostitutes and the "Prostitutes Court" is under consideration at this HQ, and I hope that the question will be taken up between HQ ACC and P.B.S.

You will, of course, receive word on these subjects through normal channels: this is which way things are likely to go.

Yours,

le

I. G. H. CAMPBELL,
Major.

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

Ref/283/90/OA

4 May 1944

SUBJECT: Review of Cases.

TO : Hq. AMG 8th Army (Main)

1. Reference your OA/13/44A of 26 April 1944 the reason for differentiating between Army areas and Regions as to reviews is as follows:

a) The Army areas have a limited number of officers, all of whom are exceedingly busy and particularly in times of forward movement. There is only one legal officer of the rank of major or above assigned to each Army who could review. Other legal officers attached, few of whom are of the rank qualified for review, are administering legal affairs in provinces and frequently act as the trial judges themselves and thus cannot review.

b) The Legal Subcommittee is desirous of following the early development of new courts administered by officers who have not had much experience and this Subcommittee believes that such reviews at Hq. particularly in the early stages, is important.

2. The recent change as to review by Regions came about only after they had become stabilized.

LEGAL SUB COMMISSION

CLO

CLO

Chief Counsel

CJO

Italian

CL RKs

NORMAN E. FIEKE
Colonel
Deputy Executive
Commissioner

Legal Sub-Commission (Your AGO/4002/L of 2 May 44 refers)

203A

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

2 May, 1944.

REFERENCE : ACC/4002/L

SUBJECT : Allied Military Courts.

TO : Regional Legal Officer (thru Regional Commissioner), Region 3.

Confirming telephone conversation of this morning Colonel Upjohn - Colonel Chapman.

1. The Chief Commissioners instructs me to say that it is unnecessary for you to show the contents of your proposed Administrative Instruction L.5076 dated 23 April 1944 containing technical directions in regard to Courts hearing cases dealing with V.D. to anybody outside A.C.C.

2. I also confirm that the Chief Commissioner has fixed Thursday next at 10 a.m. for his inspection of both Allied Military and Italian Courts in Naples.

3. I confirm that you will forthwith transfer to the jurisdiction of the Italian Courts cases of the following classes (unless in any particular case there are circumstances justifying trial before an Allied Military Court) :-

- (a) Prostitution.
- (b) Curfew.
- (c) Speeding.

and that you will obtain from the Prefect such orders as may be necessary to give jurisdiction to the Italian Courts in the last two classes of case.

4. I also confirm that Lieut. Banno will be ordered to report as soon as possible as Provincial Legal Officer for Salerno in place of Lieut. Grant and you will instruct Lieut. Banno to see me at the Palace of Justice as soon as possible.

GERALD R. UPJOHN.
Colonel,
Chief Legal Officer.

GRU/wow.

Copies to Files:

ACC/4028/L
ACC/4001/2/L
ACC/4023/L

NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommittee
APO 394

202A
HIV/gaf

2 May 1944

ACC/4002/L

SUBJECT: Review of Allied Military Court cases in army areas.

TO : Executive Commissioner, ACC.

1. Reference 8th Army letter of 28 April 1944 (reference GA/13/4A) and ACC/4002/L of 9 April 44, copy attached.

2. The reason for differentiating between army areas and Regions as to reviews is as follows;

(a) The army areas have a limited number of officers, all of whom are exceedingly busy and particularly in times of forward movement. There is only one legal officer of the rank of major or above assigned to each Army who could review. Other legal officers attached, few of whom are of the rank qualified for review, are administering legal affairs in provinces and frequently act as the trial judges themselves and thus cannot review.

(b) The Legal Subcommittee is desirous of following the early development of new courts administered by officers who have not had much experience and this Subcommittee believes that such reviews at HQ, particularly in the early stages, is important.

3. The recent change as to review by Regions came about only after they had become stabilized.

O. R. UPJOHN
Colonel
Chief Legal Officer.

Colonel Upjohn.

1740 hrs 1st May 44.

Sir, Sgt. Thompson of R.C. & M.G. Section telephoned that they had received the ACTION copy of the attached letter and wanted to know why they had not received a copy of 4002/I of 9th April. When I pointed out that it was probably a matter which Legal was properly dealing with on its own, he subsequently asked to be advised what action we take on 8th Army's letter.

W. H. H.
cl

Subject: Review of Cases.

201A
Main H.Q., A.M.C.
Eight Army.

04/13/44
28 April 44.

Executive Commissioner French,
Main H.Q., A.G.C.
A.P.C. 394.

195
1. I would refer to your letter of the 9th April, 44, ACC/4002/1, with attached Appendix 'A'. In para 3 (a) (3) there would appear to be a discrimination against S.C.A.Os and S.I.Os of Amies.

2. May this H.Q. be informed why right of review can be given to Regions despite appeal, whereas S.C.A.Os and S.I.Os of Amies can only review when there is no appeal.

C. Jones
Group Captain,
Officer Commanding,
H.Q., A.M.C. Eighth Army Main.

Copy to: Legal Sub-Commission,
Main H.Q., A.G.C. ✓
A.P.C. 394.

111

4002/4
and file

TO : C.I.D. H.Q. A.C.C. —
FROM : H.Q. Region 5 A.M.C.
SUBJECT : General Courts.
REF : R5/544/16.
DATE : 13 April 1944.

15 APR REC'D
3068

Receipt is acknowledged of your ACB/4002/L dated 9 April 1944.

For Regional Commissioner

W. E. Behrens
W. E. BEHRENSY
LT. COL.
R. L. O.

TO : All Legal Officers, Region 4

FROM : Regional Legal Officer, Region 4.

Legal Instructions No. 3

March 1944

34.

Amendment of Terminology

The following amendments of terminology will be made throughout Legal Instruction No. 1, wherever the expressions occur:-

For "R.C.A.O." read "R.C." (Regional Commissioner);
 For "R.C.L.O." " " "R.L.O." (Regional Legal Officer);
 For "S.C.A.O." " " "P.C." (Provincial Commissioner);
 For "C.A.O." " " "P.O." (Provincial Officer);
 For "S.C.A.P.O." " " "P.P.S.O." (Provincial Public Safety Officer);
 For "C.A.P.O." " " "P.Z.O." (Provincial Police Officer)

35.

Powers and Duties of R.L.O.

Paragraph 1 of Legal Instructions No. 1 is amended by the deletion of Sub-paragraphs (c) and (d). The authority to establish General Military Courts and to consider Petitions of Appeal previously delegated to the R.C., and by him to the R.L.O., has been withdrawn, and such powers can now be exercised only by the Chief Commissioner, who will act through the Chief of the Legal Sub-Commission, A.C.C.

36.

Powers and Duties of Provincial Legal Officer

Paragraph 2 of Legal Instructions No. 2 is amended by the deletion of Sub-paragraph (d), for which the following is substituted:-

"(d) The Provincial Legal Officer is expected to advise the P.C. with regard to the constitution of Superior Courts. He is responsible for ensuring that a Prosecuting Officer is detailed-preferably one with legal qualifications, if such is available-who will see that all necessary arrangements are made for the sitting of the Court. He will be prepared, when requested, to make recommendations to the R.L.O. with regard to the constitution of

Safety Officer):
For "C.A.P.O." " "P.P.O." (Provincial Police Officer

35. Powers and Duties of R.L.O.
Paragraph 1 of Legal Instructions No. 1 is amended by the deletion of Sub-paragraphs (c) and (d). The authority to establish General Military Courts and to consider Petitions of Appeal previously delegated to the R.C., and by him to the R.L.O., has been withdrawn, and such powers can now be exercised only by the Chief Commissioner, who will act through the Chief of the Legal Sub-Commission, A.C.C.

36. Powers and Duties of Provincial Legal Officer
Paragraph 2 of Legal Instructions No. 2 is amended by the deletion of Sub-paragraph (d), for which the following is substituted:-

"(d) The Provincial Legal Officer is expected to advise the P.C. with regard to the constitution of Superior Courts. He is responsible for ensuring that a Prosecuting Officer is detailed-preferably one with legal qualifications, if such is available-who will see that all necessary arrangements are made for the sitting of the Court. He will be prepared, when requested, to make recommendations to the R.L.O. with regard to the constitution of General Courts -see next paragraph."

37. General and Superior Courts.
Paragraph 3 of Legal Instructions No. 1 is amended to read as follows:-

"Appointment of General and Superior Courts.

"(a) General Military Courts are established by the Chief Commissioner, H.C., A.C.C.. Applications for the appointment of a General Military Court will be addressed, through the R.L.O., to the C.L.O., H.C., A.C.C., and will specify:-

- (i) the nature of the charges;
- (ii) the date on which the prosecution will be ready to proceed with the case;
- (iii) the names of the officers available to sit on the court;

(lv) the names of the prosecuting officer, interpreter, and officers available to act for the defence in the event of the accused not being represented by Counsel;

(v) the expected duration of the case.

"(b) Superior Military Courts are constituted by the P.C., to whom your application should be directed, together with your recommendations as to the members. The following Directive issued by H.Q., S.C.C., will be strictly complied with:-

"(i) except where a judicial officer is specially authorised by the C.L.O., HQ S.C.C. to sit alone as a Superior Military Court, a Superior Military Court, shall consist of at least two officers, one of whom shall be a judicial officer. Application for such special authorisation may be made forthwith accompanied by a statement of the officer's experience and qualifications.

"(ii) Every Superior Court shall be properly convened by the S.C.A.O. of the province in which the court shall sit.

"(iii) In no case shall an officer while sitting as a Summary Court assume the powers of a Superior Court by an announcement to that effect or otherwise. If the case which he is hearing as a Summary Court proves to be one which should be dealt with by a Superior Court, the officer shall remit the case for trial by a Superior Court and a Superior Court will be duly convened. Such Summary Court Officer is not disqualified from sitting as a member of the Superior Court to try the case so remitted.

38. Petitions to Review

Paragraph 22 of Legal Instructions No. 1 is amended by the deletion of Sub-paragraph (c), for which the following is substituted:-

"(c) Petitions will be reviewed by the Chief Commissioner S.C.C., or an officer appointed by him, and will be forwarded by the Provincial Legal Officer to the R.L.O. for onward transmission. The Provincial Legal Officer will ensure that all material documents are forwarded, including (i) Record of Proceedings (Form 8), (ii) charge sheet, (iii) Arrest Report, and (iv) record of previous convictions, if any; he will also ensure that where any of the documents is in

"(ii) Every Superior Court shall be properly convened by the S.C.A.O. of the province in which the court shall sit.

"(iii) In no case shall an officer while sitting as a Summary Court assume the powers of a Superior Court by an announcement to that effect or otherwise. If the case which he is hearing as a Summary Court proves to be one which should be dealt with by a Superior Court, the officer shall remit the case for trial by a Superior Court and a Superior Court will be duly convened. Such Summary Court Officer is not disqualified from sitting as a member of the Superior Court to try the case so remitted.

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39. Procedure in Allied Military Courts.

The following directive from H.Q., A.C.C., dated 10 Feb. 44, is quoted for your information and compliance by all Allied Military Courts:-

"(1) Attention is called to the statement in Special Administrative Instruction Legal No. 1 that "It is as important that justice should seem to be done as that it should be done". Every care should be taken:

(i) to ensure not only that judges are impartial but that they appear to be impartial alike to prosecution and defense. No officer who has taken part in the investigation of any case (other than merely determining whether the case is suitable for trial by a General, Superior or Summary Court) is eligible to hear that case;

(ii) to ensure that the evidence is fairly and accurately interpreted, particularly where evidence for the

prosecution is given in a language other than Italian. The judge should address his remarks directly to the witness and the interpreter should interpret literally the judge's words. Interpreters should not be allowed to frame questions and answers selves nor to give merely the purport of questions and answers.

(iii) A time limit for speeches should not be imposed on defending advocates, but they may be directed to confine themselves to arguments based on facts adduced in evidence.

40. Disposal of Property

It is important to ensure that property seized in connection with any case before Allied Military Courts is not disposed of otherwise than in pursuance of the order of the Court. If in an exceptional case it is necessary to dispose of the property in advance of trial (e.g. on the ground that it consists of goods of a perishable nature or of stores urgently required for operational purposes), a certificate of the officer ordering such disposal must be attached to the Record of Proceedings, together with a receipt signed by the authority taking delivery of the property. Otherwise property will remain at the disposal of the Court, who may order (a) restitution to the accused, (b) restitution to the true owner, or (c) forfeiture to A.M.G. In the last-named event the order should specify the officer or organisation to whom the property is consigned. In all cases a receipt must be obtained from the person taking delivery and attached to the Record of Proceedings, and the Record itself must contain a note of the order made.

41. Trial in Camera

(a) Except in unusual and compelling circumstances all trials before Allied Military Courts should be open to the public.

(b) Any Allied Military Court, however, has power to direct that a trial may be conducted in camera. The Chief Commissioner and also the Reg. Com. have similar powers.

(c) If it is obvious to the judge at any time during the trial that the evidence to be given may prejudice the security of the Allied Forces, he should spontaneously order the case to be heard in camera, in whole or in part, as may be required.

authority taking delivery will remain at the disposal of the Court, who may order (a) restitution to the accused, (b) restitution to the true owner, or (c) forfeiture to A.M.G. In the last-named event the order should specify the officer or organisation to whom the property is consigned. In all cases a receipt must be obtained from the person taking delivery and attached to the Record of Proceedings, and the Record itself must contain a note of the order made.

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(b) Any Allied Military Court, however, has power to direct that a trial may be conducted in camera. The Chief Commissioner and also the Reg. Com. have similar powers.

(c) If it is obvious to the judge at any time during the trial that the evidence to be given may prejudice the security of the Allied Forces, he should spontaneously order the case to be heard in camera, in whole or in part, as may be required.

(d) Where application is made that a trial be conducted wholly or in part in camera, the judge, if satisfied as to the reasonableness of the application, should so order. If the judge is not so satisfied, he should postpone the hearing and submit the circumstances, through the Provincial Legal Officer and the R.L.O., to the R.C. for decision.

(e) Whenever a case has been heard, wholly or in part in camera, a report is required from the presiding judge, giving the reasons for such trial in camera and stating on whose application the trial was so conducted. If the judge is of the opinion that it was in fact unnecessary to hear the case in camera, he will so state in his report, giving reasons for his opinion. The report of the presiding judge will be addressed to the Chief Legal Officer, A.C.O., and forwarded through the Provincial Legal Officer and the R.L.O.

42. Mail Theft Cases

All cases where theft of Allied Mail is alleged will be most carefully investigated, and the offence if proved will be punished with the utmost severity. The following special instructions apply to cases of mail theft:-

(a) Such cases will normally be remanded for trial before a General Military Court;

b) No bail will be granted at all, except in the light of most unusual circumstances, and then the amount will be fixed so high as to render it most unlikely that the accused will fail to be present at his trial;

(c) A special report will be rendered by the presiding officer, through the Provincial Legal Officer, to the P.L.O. setting out full details of the case.

43. Meaning of the phrase "Allied Forces"

The following directive from Chief Legal Officer, H.Q. A.C.C., dated 29 Feb. 44, is quoted for your information and compliance by all Allied Military Courts:-

"The question has recently arisen as to proclamation offences against members of armed forces such as Yugoslav and Polish contingents and the Corps Expeditionnaire Francaise who are fighting on the Allied side in Italy and the following directive is issued for your guidance.

"1. The expression "Allied Forces" when used in Proclamation No. 2 and other relevant proclamations in describing offences against the Allied Forces will be construed to include organized contingents of other nationalities (such as the above) who are under the command of C in C Italy.

" This does not include Italian troops who are only combatants and who in any event have ample resources in their own courts for punishing offenders.

"2. In some cases e.g. Proclamation 2 Art II Sec 30 a different wording is used and in this case the normal construction will be used and if for instance words disrespectful to members of the C.E.F. are used it is not an offence under that section.

"3. Allied Military Courts have no jurisdiction over members of the "Allied Forces" (Proc 4 Art. II Sec 2 (a)) and Courts will not therefore try members of organized contingents of armed forces of other nationalities who are under the command of C in C Italy. This does not preclude trial in A.M. Courts (1) of soldiers of other nationalities who are not in an organized body under the C in C. (2) of Italian soldiers but normally and in the absence of some reason to the contrary they will be handed over to their own Military Courts for trial."

44. Provision of Interpreters.

Attention is directed to Regional Circular No. 2, dated

(b) The R.O. will look to Provincial Commissioners for information and recommendations with regard to such cases. Provincial Legal Officers are, therefore, required to do their utmost, in collaboration with Provincial Public Safety Officers, to assist Provincial Commissioners in obtaining information with regard to such cases.

(c) The above instructions are in amplification of those contained in Legal Instructions No. 1, paragraph 2(b)(vi). Any information with regard to the above points should be brought to notice in the Provincial Legal Officer's monthly report.

46. Right of Pardon.

(a) The following Directive from H.Q., L.O.O., dated 7 February 44, is quoted for your information with regard to procedure in occupied territory in connection with petitions for pardon.

"1. During the period of Military Occupation the exercise of the powers of the Crown of Italy are suspended and all powers of government and jurisdiction in the Occupied Territory and final administrative responsibility are vested in the Military Governor (Proclamation 1). Accordingly the power of pardon vested in the King of Italy is suspended during the period of Military Occupation, and in consequence petitions for pardon, should be addressed through channels to the Military Governor and not to the King.

"2. The Military Governor may deal with petitions for pardon whether the offense and/or sentence were before or after occupation.

"3. The procedure and channels to be pursued are the same as under usual Italian Practice save only that the documents will be forwarded to the Regional Commissioner in lieu of the Minister of Justice, and the Regional Commissioner, acting upon the advice of the R.C.L.O., will forward the same to the C.I.O. HQ. ACC for transmission to the Military Governor.

"4. The subject of provisional or conditional liberty pending consideration of petition of pardon is fully covered by previous directives (see memorandum on Italian

petitions for pardon.

"1. During the period of Military Occupation the exercise of the powers of the Crown of Italy are suspended and all powers of government and jurisdiction in the Occupied Territory and final administrative responsibility are vested in the Military Governor (Proclamation 1). Accordingly the power of pardon vested in the King of Italy is suspended during the period of Military Occupation, and in consequence petitions for pardon, should be addressed through channels to the Military Governor and not to the King.

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"4. The subject of provisional or conditional liberty pending consideration of petition of pardon is fully covered by previous directives (see memorandum on Italian Courts and Legal Set Up; appendix A).

"5. For your information the following is the Italian Procedure in connection with application for pardons and is to be followed subject, however, to the foregoing (i.e. Pardons will be addressed to the Regional Commissioner).

"The request for Royal Pardon is addressed to the King but forwarded to the Minister of Justice. It must be signed by the prisoner, a near relative, his guardian or his legal attorney.

"The request in stamped paper, can be presented to the competent Procuratore del Re or Pretore, as the case may be for transmission to the Minister, with all information available about the case and comments.

"It can be also done through the Director of the Prison where the prisoner is serving his sentence.

"The King acts on the formal recommendation of the Minister."

"6. It is the duty of the R.C.L.O. to bring the contents of this directive to the notice of all Directors of prisons, Procuratore del Re' and Pretore in his Region."

46. Right of Parion (continued)

(b) Provincial Legal Officers will be responsible for bringing the contents of the above directive to the notice of all Directors of Prisons, Procuratori del Re, and Pretori within their respective Provinces.

47. A new form of Arrest Report is being introduced. A copy is attached hereto in replacement of Appendix "A" to Legal Instructions No. 1

H. L. Williams

Colonel,
R.I.O. Reg. 4.

IV FSL Form I. **GOVERNO MILITARE ALLEATO - ALLIED MILITARY GOVERNMENT**
RAPPORTO D'ARRESTO - REPORT OF ARREST

I. - Numero di persone arrestate - Number of persons arrested.

Numero delle persone arrestate ed accusate congiuntamente in questo reato:
 Number of persons arrested and charged jointly with this offense:

II. - Persone arrestate - Persons arrested.

(a)	(Nome - Last Name)	(Nome - First & Middle Name)	(Cognome - Surname)	(Data di Nascita - Birth Date)	(Sesso - Sex)	(Stato Civile - Civil Status)
Indirizzo - Address:	(Via - Street Address)	(Città - City)	(Paese - Country)	(Data di Arresto - Arrest Date)	(Sesso - Sex)	(Stato Civile - Civil Status)
(b)	(Nome - Last Name)	(Nome - First & Middle Name)	(Cognome - Surname)	(Data di Nascita - Birth Date)	(Sesso - Sex)	(Stato Civile - Civil Status)
Indirizzo - Address:	(Via - Street Address)	(Città - City)	(Paese - Country)	(Data di Arresto - Arrest Date)	(Sesso - Sex)	(Stato Civile - Civil Status)

III. - Accusa e causa dettagliata dell'arresto - Charge & details of incident leading to arrest.

Elencare al terzo di questo foglio altri congiuntamente accusati in questo reato.
 List others charged jointly with this offense on back hereof.

Luogo dell'arresto:
 Place of arrest:

Luogo del reato:
 Place of offense:

Rapporto dettagliato dei fatti che costituiscono il reato:
 Detailed statement of facts constituting offense:

IV. - Elenco e descrizione di proprietà sequestrata - List and description of property seized.

Indirizzo e address in proprietà:
 Present whereabouts of property:

V. - Nome ed identità dell'ufficiale facendo l'arresto - Name and identity of arresting officer.

(Continuation of Form 100-1, previous page, to be used for additional information.)
(Continuare un altro foglio se sono necessarie informazioni aggiuntive.)

IV. - Elenco e descrizione di proprietà sequestrata - List and description of property seized.

Ladroe è adesso la proprietà;
 Present whereabouts of property:

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V. - Nome ed identità dell'ufficiale facendo l'arresto - Name and identity of arresting officer.

(Name - Station)

(Rank)

(Matricola - A. S. N.)

(A.P.O.)

(Department - Unit)

VI. - Testimoni - Witnesses.

Riporta i nomi delle persone che furono ascoltate i testimoni della commissione del reato accusato, dandone il grado, numero di matricola, e il numero A.P.O. se si tratta di personale militare, e l'indirizzo se si tratta di borghese.
 State names of the persons who actually witnessed the commission of the offense charged, giving rank, organization, serial number and A.P.O. Number if Military personnel, and address if civilians.

No. 1

On linea firmata da chi ha questo documento arrestato. Summarize briefly what this witness will testify.

No. 2

On linea firmata da chi ha questo documento arrestato. Summarize briefly what this witness will testify.

VII. - Il completamento del rapporto - Completeness of report.

Deve essere sottoposto alla informazione 2 (Vedi istruzioni)
 Is further information to be submitted? (See instructions)

VIII. - Stazione C.C.R.R. o commissariato di P. S. dov'è la matricola - Station where booked.

Stazione:

Stazione:

(Stampa)

(Print)

(Firma)

(Sign)

Nome, numero e titolo della persona che presenta questo rapporto.

es, number and title of person filing this report and designation.

Numero di Matricola della P. M.
M. M. Registrar or Booking No.:

IX. - Interprete - Interpreter.

Se un interprete è stato usato nell'interrogare l'accusato o i testimoni, dichiara il suo nome ed indirizzo.
If an interpreter was used in interrogating the accused or witnesses, state here his name and address.

X. - Prigione dove l'accusato è detenuto (gli accusati sono detenuti) - Prison where accused is (are) confined.

Nome della Prigione:
Name of Prison:

No. di Matricola del Carcere:
Prison Registry Number: (a)

XI. - Persone arrestate - continuazione del paragrafo II. - Persons arrested - continued from paragraph II.

(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)	(q)	(r)	(s)	(t)	(u)	(v)	(w)	(x)	(y)	(z)	(aa)	(ab)	(ac)	(ad)	(ae)	(af)	(ag)	(ah)	(ai)	(aj)	(ak)	(al)	(am)	(an)	(ao)	(ap)	(aq)	(ar)	(as)	(at)	(au)	(av)	(aw)	(ax)	(ay)	(az)	(ba)	(bb)	(bc)	(bd)	(be)	(bf)	(bg)	(bh)	(bi)	(bj)	(bk)	(bl)	(bm)	(bn)	(bo)	(bp)	(bq)	(br)	(bs)	(bt)	(bu)	(bv)	(bw)	(bx)	(by)	(bz)	(ca)	(cb)	(cc)	(cd)	(ce)	(cf)	(cg)	(ch)	(ci)	(cj)	(ck)	(cl)	(cm)	(cn)	(co)	(cp)	(cq)	(cr)	(cs)	(ct)	(cu)	(cv)	(cw)	(cx)	(cy)	(cz)	(da)	(db)	(dc)	(dd)	(de)	(df)	(dg)	(dh)	(di)	(dj)	(dk)	(dl)	(dm)	(dn)	(do)	(dp)	(dq)	(dr)	(ds)	(dt)	(du)	(dv)	(dw)	(dx)	(dy)	(dz)	(ea)	(eb)	(ec)	(ed)	(ee)	(ef)	(eg)	(eh)	(ei)	(ej)	(ek)	(el)	(em)	(en)	(eo)	(ep)	(eq)	(er)	(es)	(et)	(eu)	(ev)	(ew)	(ex)	(ey)	(ez)	(fa)	(fb)	(fc)	(fd)	(fe)	(ff)	(fg)	(fh)	(fi)	(fj)	(fk)	(fl)	(fm)	(fn)	(fo)	(fp)	(fq)	(fr)	(fs)	(ft)	(fu)	(fv)	(fw)	(fx)	(fy)	(fz)	(ga)	(gb)	(gc)	(gd)	(ge)	(gf)	(gg)	(gh)	(gi)	(gj)	(gk)	(gl)	(gm)	(gn)	(go)	(gp)	(gq)	(gr)	(gs)	(gt)	(gu)	(gv)	(gw)	(gx)	(gy)	(gz)	(ha)	(hb)	(hc)	(hd)	(he)	(hf)	(hg)	(hh)	(hi)	(hj)	(hk)	(hl)	(hm)	(hn)	(ho)	(hp)	(hq)	(hr)	(hs)	(ht)	(hu)	(hv)	(hw)	(hx)	(hy)	(hz)	(ia)	(ib)	(ic)	(id)	(ie)	(if)	(ig)	(ih)	(ii)	(ij)	(ik)	(il)	(im)	(in)	(io)	(ip)	(iq)	(ir)	(is)	(it)	(iu)	(iv)	(iw)	(ix)	(iy)	(iz)	(ja)	(jb)	(jc)	(jd)	(je)	(jf)	(jg)	(jh)	(ji)	(jj)	(jk)	(jl)	(jm)	(jn)	(jo)	(jp)	(jq)	(jr)	(js)	(jt)	(ju)	(jv)	(jw)	(jx)	(jy)	(jz)	(ka)	(kb)	(kc)	(kd)	(ke)	(kf)	(kg)	(kh)	(ki)	(kj)	(kk)	(kl)	(km)	(kn)	(ko)	(kp)	(kq)	(kr)	(ks)	(kt)	(ku)	(kv)	(kw)	(kx)	(ky)	(kz)	(la)	(lb)	(lc)	(ld)	(le)	(lf)	(lg)	(lh)	(li)	(lj)	(lk)	(ll)	(lm)	(ln)	(lo)	(lp)	(lq)	(lr)	(ls)	(lt)	(lu)	(lv)	(lw)	(lx)	(ly)	(lz)	(ma)	(mb)	(mc)	(md)	(me)	(mf)	(mg)	(mh)	(mi)	(mj)	(mk)	(ml)	(mm)	(mn)	(mo)	(mp)	(mq)	(mr)	(ms)	(mt)	(mu)	(mv)	(mw)	(mx)	(my)	(mz)	(na)	(nb)	(nc)	(nd)	(ne)	(nf)	(ng)	(nh)	(ni)	(nj)	(nk)	(nl)	(nm)	(nn)	(no)	(np)	(nq)	(nr)	(ns)	(nt)	(nu)	(nv)	(nw)	(nx)	(ny)	(nz)	(oa)	(ob)	(oc)	(od)	(oe)	(of)	(og)	(oh)	(oi)	(oj)	(ok)	(ol)	(om)	(on)	(oo)	(op)	(oq)	(or)	(os)	(ot)	(ou)	(ov)	(ow)	(ox)	(oy)	(oz)	(pa)	(pb)	(pc)	(pd)	(pe)	(pf)	(pg)	(ph)	(pi)	(pj)	(pk)	(pl)	(pm)	(pn)	(po)	(pp)	(pq)	(pr)	(ps)	(pt)	(pu)	(pv)	(pw)	(px)	(py)	(pz)	(qa)	(qb)	(qc)	(qd)	(qe)	(qf)	(qg)	(qh)	(qi)	(qj)	(qk)	(ql)	(qm)	(qn)	(qo)	(qp)	(qq)	(qr)	(qs)	(qt)	(qu)	(qv)	(qw)	(qx)	(qy)	(qz)	(ra)	(rb)	(rc)	(rd)	(re)	(rf)	(rg)	(rh)	(ri)	(rj)	(rk)	(rl)	(rm)	(rn)	(ro)	(rp)	(rq)	(rr)	(rs)	(rt)	(ru)	(rv)	(rw)	(rx)	(ry)	(rz)	(sa)	(sb)	(sc)	(sd)	(se)	(sf)	(sg)	(sh)	(si)	(sj)	(sk)	(sl)	(sm)	(sn)	(so)	(sp)	(sq)	(sr)	(ss)	(st)	(su)	(sv)	(sw)	(sx)	(sy)	(sz)	(ta)	(tb)	(tc)	(td)	(te)	(tf)	(tg)	(th)	(ti)	(tj)	(tk)	(tl)	(tm)	(tn)	(to)	(tp)	(tq)	(tr)	(ts)	(tt)	(tu)	(tv)	(tw)	(tx)	(ty)	(tz)	(ua)	(ub)	(uc)	(ud)	(ue)	(uf)	(ug)	(uh)	(ui)	(uj)	(uk)	(ul)	(um)	(un)	(uo)	(up)	(uq)	(ur)	(us)	(ut)	(uu)	(uv)	(uw)	(ux)	(uy)	(uz)	(va)	(vb)	(vc)	(vd)	(ve)	(vf)	(vg)	(vh)	(vi)	(vj)	(vk)	(vl)	(vm)	(vn)	(vo)	(vp)	(vq)	(vr)	(vs)	(vt)	(vu)	(vv)	(vw)	(vx)	(vy)	(vz)	(wa)	(wb)	(wc)	(wd)	(we)	(wf)	(wg)	(wh)	(wi)	(wj)	(wk)	(wl)	(wm)	(wn)	(wo)	(wp)	(wq)	(wr)	(ws)	(wt)	(wu)	(wv)	(ww)	(wx)	(wy)	(wz)	(xa)	(xb)	(xc)	(xd)	(xe)	(xf)	(xg)	(xh)	(xi)	(xj)	(xk)	(xl)	(xm)	(xn)	(xo)	(xp)	(xq)	(xr)	(xs)	(xt)	(xu)	(xv)	(xw)	(xx)	(xy)	(xz)	(ya)	(yb)	(yc)	(yd)	(ye)	(yf)	(yg)	(yh)	(yi)	(yj)	(yk)	(yl)	(ym)	(yn)	(yo)	(yp)	(yq)	(yr)	(ys)	(yt)	(yu)	(yv)	(yw)	(yx)	(yy)	(yz)	(za)	(zb)	(zc)	(zd)	(ze)	(zf)	(zg)	(zh)	(zi)	(zj)	(zk)	(zl)	(zm)	(zn)	(zo)	(zp)	(zq)	(zr)	(zs)	(zt)	(zu)	(zv)	(zw)	(zx)	(zy)	(zz)
(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)	(q)	(r)	(s)	(t)	(u)	(v)	(w)	(x)	(y)	(z)	(aa)	(ab)	(ac)	(ad)	(ae)	(af)	(ag)	(ah)	(ai)	(aj)	(ak)	(al)	(am)	(an)	(ao)	(ap)	(aq)	(ar)	(as)	(at)	(au)	(av)	(aw)	(ax)	(ay)	(az)	(ba)	(bb)	(bc)	(bd)	(be)	(bf)	(bg)	(bh)	(bi)	(bj)	(bk)	(bl)	(bm)	(bn)	(bo)	(bp)	(bq)	(br)	(bs)	(bt)	(bu)	(bv)	(bw)	(bx)	(by)	(bz)	(ca)	(cb)	(cc)	(cd)	(ce)	(cf)	(cg)	(ch)	(ci)	(cj)	(ck)	(cl)	(cm)	(cn)	(co)	(cp)	(cq)	(cr)	(cs)	(ct)	(cu)	(cv)	(cw)	(cx)	(cy)	(cz)	(da)	(db)	(dc)	(dd)	(de)	(df)	(dg)	(dh)	(di)	(dj)	(dk)	(dl)	(dm)	(dn)	(do)	(dp)	(dq)	(dr)	(ds)	(dt)	(du)	(dv)	(dw)	(dx)	(dy)	(dz)	(ea)	(eb)	(ec)	(ed)	(ee)	(ef)	(eg)	(eh)	(ei)	(ej)	(ek)	(el)	(em)	(en)	(eo)	(ep)	(eq)	(er)	(es)	(et)	(eu)	(ev)	(ew)	(ex)	(ey)	(ez)	(fa)	(fb)	(fc)	(fd)	(fe)	(ff)	(fg)	(fh)	(fi)	(fj)	(fk)	(fl)	(fm)	(fn)	(fo)	(fp)	(fq)	(fr)	(fs)	(ft)	(fu)	(fv)	(fw)	(fx)	(fy)	(fz)	(ga)	(gb)	(gc)	(gd)	(ge)	(gf)	(gg)	(gh)	(gi)	(gj)	(gk)	(gl)	(gm)	(gn)	(go)	(gp)	(gq)	(gr)	(gs)	(gt)	(gu)	(gv)	(gw)	(gx)	(gy)	(gz)	(ha)	(hb)	(hc)	(hd)	(he)	(hf)	(hg)	(hh)	(hi)	(hj)	(hk)	(hl)	(hm)	(hn)	(ho)	(hp)	(hq)	(hr)	(hs)	(ht)	(hu)	(hv)	(hw)	(hx)	(hy)	(hz)	(ia)	(ib)	(ic)	(id)	(ie)	(if)	(ig)	(ih)	(ii)	(ij)	(ik)	(il)	(im)	(in)	(io)	(ip)	(iq)	(ir)	(is)	(it)	(iu)	(iv)	(iw)	(ix)	(iy)	(iz)	(ja)	(jb)	(jc)	(jd)	(je)	(jf)	(jg)	(jh)	(ji)	(jj)	(jk)	(jl)	(jm)	(jn)	(jo)	(jp)	(jq)	(jr)	(js)	(jt)	(ju)	(jv)	(jw)	(jx)	(jy)	(jz)	(ka)	(kb)	(kc)	(kd)	(ke)	(kf)	(kg)	(kh)	(ki)	(kj)	(kl)	(km)	(kn)	(ko)	(kp)	(kq)	(kr)	(ks)	(kt)	(ku)	(kv)	(kw)	(kx)	(ky)	(kz)	(la)	(lb)	(lc)	(ld)	(le)	(lf)	(lg)	(lh)	(li)	(lj)	(lk)	(ll)	(lm)	(ln)	(lo)	(lp)	(lq)	(lr)	(ls)	(lt)	(lu)	(lv)	(lw)	(lx)	(ly)	(lz)	(ma)	(mb)	(mc)	(md)	(me)	(mf)	(mg)	(mh)	(mi)	(mj)	(mk)	(ml)	(mm)	(mn)	(mo)	(mp)	(mq)	(mr)	(ms)	(mt)	(mu)	(mv)	(mw)	(mx)	(my)	(mz)	(na)	(nb)	(nc)	(nd)	(ne)	(nf)	(ng)	(nh)	(ni)	(nj)	(nk)	(nl)	(nm)	(nn)	(no)	(np)	(nq)	(nr)	(ns)	(nt)	(nu)	(nv)	(nw)	(nx)	(ny)	(nz)	(oa)	(ob)	(oc)	(od)	(oe)	(of)	(og)	(oh)	(oi)	(oj)	(ok)	(ol)	(om)	(on)	(oo)	(op)	(oq)	(or)	(os)	(ot)	(ou)	(ov)	(ow)	(ox)	(oy)	(oz)	(pa)	(pb)	(pc)	(pd)	(pe)	(pf)	(pg)	(ph)	(pi)	(pj)	(pk)	(pl)	(pm)	(pn)	(po)	(pp)	(pq)	(pr)	(ps)	(pt)	(pu)	(pv)	(pw)	(px)	(py)	(pz)	(qa)	(qb)	(qc)	(qd)	(qe)	(qf)	(qg)	(qh)	(qi)	(qj)	(qk)	(ql)	(qm)	(qn)	(qo)	(qp)	(qq)	(qr)	(qs)	(qt)	(qu)	(qv)	(qw)	(qx)	(qy)	(qz)	(ra)	(rb)	(rc)	(rd)	(re)	(rf)	(rg)	(rh)	(ri)	(rj)	(rk)	(rl)	(rm)	(rn)	(ro)	(rp)	(rq)	(rr)	(rs)	(rt)	(ru)	(rv)	(rw)	(rx)	(ry)	(rz)	(sa)	(sb)	(sc)	(sd)	(se)	(sf)	(sg)	(sh)	(si)	(sj)	(sk)	(sl)	(sm)	(sn)	(so)	(sp)	(sq)	(sr)	(ss)	(st)	(su)	(sv)	(sw)	(sx)	(sy)	(sz)	(ta)	(tb)	(tc)	(td)	(te)	(tf)	(tg)	(th)	(ti)	(tj)	(tk)	(tl)	(tm)	(tn)	(to)	(tp)	(tq)	(tr)	(ts)	(tt)	(tu)	(tv)	(tw)	(tx)	(ty)	(tz)	(ua)	(ub)	(uc)	(ud)	(ue)	(uf)	(ug)	(uh)	(ui)	(uj)	(uk)	(ul)	(um)	(un)	(uo)	(up)	(uq)	(ur)	(us)	(ut)	(uu)	(uv)	(uw)	(ux)	(uy)	(uz)	(va)	(vb)	(vc)	(vd)	(ve)	(vf)	(vg)	(vh)	(vi)	(vj)	(vk)	(vl)	(vm)	(vn)	(vo)	(vp)	(vq)	(vr)	(vs)	(vt)	(vu)	(vv)	(vw)	(vx)	(vy)	(vz)	(wa)	(wb)	(wc)	(wd)	(we)	(wf)	(wg)	(wh)	(wi)	(wj)	(wk)	(wl)	(wm)	(wn)	(wo)	(wp)	(wq)	(wr)	(ws)	(wt)	(wu)	(wv)	(ww)	(wx)	(wy)	(wz)	(xa)	(xb)	(xc)	(xd)	(xe)	(xf)	(xg)	(xh)	(xi)	(xj)	(xk)	(xl)	(xm)	(xn)	(xo)	(xp)	(xq)	(xr)	(xs)	(xt)	(xu)	(xv)	(xw)	(xx)	(xy)	(xz)	(ya)	(yb)	(yc)	(yd)	(ze)	(zf)	(zg)	(zh)	(zi)	(zj)	(zk)	(zl)	(zm)	(zn)	(zo)	(zp)	(zq)	(zr)	(zs)	(zt)	(zu)	(zv)	(zw)	(zx)	(zy)	(zz)																											

XII. - Continuazione del III, IV, VI, o XI ed altre informazioni - Continuation of III, IV, VI or XI or additional information

Address: (Via Street Address) (Country City)
 XII. - Continuazione del III, IV, VI, o XI od altre informazioni - Continuation of III, IV, VI or XI or additional information

(La copia rossa deve essere ritenuta dal Commissariato di Matricola - quella bianca e verde mandata con il prigioniero al Direttore. Essendo completata dal detenuto, la copia verde e ritenuta da lui e lo - sia bianca spedita all'ufficio del Procuratore Alleanza).
 (Pink copy to be retained at Booking Office - white and green to be sent with prisoner to Director. After being completed by Director, green copy to be retained by him and white copy delivered to Press and Officer.)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
A.P.O. 394

IGHC/eap

9th April 1944

ACC/4002/L

SUBJECT: Review of Cases

TO : RLOs (thru RCs) Regions 1, 2, 3, 4, 5 and 6.

Ref ACC/4013/4/L of 6 April 1944 (Notes of Meeting at Naples on 3 April 1944) para. 3 (a).

1. The production of the handbook is being proceeded with. Meanwhile the Executive Commissioner has agreed to decentralisation in reviews.

2. Appendix A is a copy of the draft Article 28 in that book.

3. With effect from 0001 hours, 20th April 1944, NO record will be forwarded to this H.Q. for review unless it falls within the provisions of para 3 of the draft Article 28.

Richard H. Wimer
atcol cae
G. R. UPJOHN,
Colonel,
Chief Legal Officer.

Copy to: SLOs, A.M.C. 5th Army and 8th Army
(For information only. Existing practice for review in Army areas is NOT affected.)

Appendix "A" to ACC/4002/L
dated 9th April 1944

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Article 18 - Review.

1. Every person convicted by an Allied Military Court has a right to present a petition for review. The rules governing such petitions are set out in the Rules of Procedure, Rule 23. Part 3 of that rule provides:

"A petition must comply with the following conditions:

- (a) It must be on the prescribed forms.
- (b) It must be presented within 30 days.
- (c) It must be presented to the trial court or to the provincial legal officer.
- (d) It must be signed by the accused personally or by the lawyer who appeared for him at the trial.
- (e) It must state the grounds of appeal.
- (f) It must state the full name and address of the accused or the lawyer by whom it is presented."

Provincial and other legal officers must see that the lawyers understand and comply with the provisions of Rule 23.

2. The presiding officer forwarding a petition will always make his comments in the space provided for the purpose. It is the duty of the Provincial Legal Officer to see that this has been done before the papers are forwarded to Regional Legal Officer.

3. The record of the following cases will be reviewed by the Chief Commissioner or by a judicial officer NOT below the rank of Lieutenant Colonel appointed by him for that purpose.

(a) Where the trial was held within an army area.

- (1) Where one or more of the charges is framed under Italian law, *on any one of two or more persons*
- (2) Where the sentence on the accused or ~~where two or more accused are tried jointly, where the sentence on any one of them exceeds two years imprisonment or 50,000 lire fine.~~

(3) Where the accused, or where two or more accused are tried jointly, where any one of the accused submits a petition for review.

(4) Where on account of the importance of the case or for any reason the Senior Civil Affairs Officer of the Army submits the record for review by the Chief Commissioner.

(b) Where the trial was held within a Region or part of a Region in rear of an Army.

2. The presiding officer forwarding a petition will always make his comments in the space provided for the purpose. It is the duty of the Provincial Legal Officer to see that this has been done before the papers are forwarded to Regional Legal Officer.
3. The record of the following cases will be reviewed by the Chief Commissioner or by a judicial officer not below the rank of Lieutenant Colonel appointed by him for that purpose.

(a) Where the trial was held within an army area.

- (1) Where one or more of the charges is framed under Italian Law.
- (2) Where the sentence on the accused ~~on any one of two or more persons jointly, where the sentence on any one of them exceeds two years imprisonment or 50,000 lire fine.~~ ^{on any one of two or more persons}
- (3) Where the accused, or where two or more accused are tried jointly, where any one of the accused submits a petition for review.

(4) Where on account of the importance of the case or for any reason the Senior Civil Affairs Officer of the Army submits the record for review by the Chief Commissioner.

(b) Where the trial was held within a Region or part of a Region in rear of an Army.

- (1) Where one or more of the charges is framed under Italian Law.
- (2) Where the sentence on the accused ~~on any one of two or more persons tried jointly, where the sentence on any one of them exceeds two years imprisonment or 50,000 lire fine.~~ ^{on any one of two or more persons}
- (3) Where on account of the importance of the case or for any reason the Regional Commissioner submits the record for review by the Chief Commissioner.

4. The records of all other cases (whether or not a Petition for Review is presented) will be reviewed by the Regional Commissioner or by a judicial officer not below the rank of Major appointed by him for that purpose.

5. There is no right to submit a petition to the Chief Commissioner by way of appeal from the decision of the Regional Commissioner in any case reviewed by him in accordance with the powers above conferred on him.

6. a. Records of cases for review by the Chief Commissioner will be forwarded by Regional Legal Officers to the Chief Legal Officer immediately upon

- (1) Receipt of a Petition for Review, or
- (2) Expiration of the period necessary for a petition for review presented on the last permissible day to reach the Regional Legal Officer.

which ever shall first happen.

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2. Records of such cases until forwarded and records of other cases will be disposed of as directed by the Regional Commissioner.

7. Petitions presented out of time strictly speaking may be disregarded: Rules of Procedure, Article 25, para. 5. As a matter of practice, unless they are very substantially out of time, they will be treated the same as if presented within the permitted time. ADVOCATES WILL NOT BE INJURED BY THIS.

8. The Decision of the Reviewing Authority will be entered in the space provided therefor on the Record (i.e., on the back of Form 2 or Form 4 or Form 8).

✓
Subject:- Rules of Procedure. ✓ *7th*

(192)
HQ AME Rear Eighth Army.

OM/13.

7 April 44.

4002

PL.O.
CAMPORDISSO.

1. You are hereby authorized to order that any particular case or classes of cases shall be brought directly before a Superior Military Court for trial.

Edwin J. Mercer

EDWIN J. MERCER. Maj. Ord.
Senior Legal Officer,
AME, Eighth Army.

Copy To:- Chief Legal Officer, ✓
H.Q. Allied Control Commission (Rear)

