

ACC

10000/142/39

RECONSIDERA
FEB. - AUG. 1

000/142/39

RECONSIDERATION OF A.M. COURT CASES AFTER RESTORATION
FEB. - AUG. 1944

4002/13.

Regal

TO: CIO HQ ACC
FROM: HQ REGION V AMR/ACC
SUBJECT: Receipt of case records
REF: 85/511/14

21 August 44

1. Receipt is acknowledged of the records in the following cases:-
- (a) Spicciarello Michele et al
 - (b) Strizzi Domenico
 - (c) Petronzi Pasquale et al
 - (d) D'acchile Vito
 - (e) Bruno Antonio et al
 - (f) Zabrione Severino

For the Regional Commissioner

J. L. WILLIS
Lt. Colonel,
CIO

by *[Signature]*
A. S. TROXELL
Lt. Colonel,
DAIO

AST/nm

HEADQUARTERS
24 AUG 1944
A. C. C.

22

2598

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

/jpl

ACC/4002/13/L

18 Aug. 44

Subject: Re-Review of AMJ cases.

To : Regional Legal Officer, Region 5.

1. Returned herewith are the records in the following cases:

- (a) Spicciarello Michele et al
- (b) Strizzi Domenico
- (c) Petrozzi Pasquale et al
- (d) D'Acchile Vito
- (e) Bruno Antonio et al
- (f) Zabaione Savino.

Please acknowledge receipt.

2. After consideration it is not proposed to interfere with the sentence in the case of Petrozzi and others.

3. So far as the others are concerned: one case (Zabaione) is a case of killing a soldier: one is a case of stealing mail; one is a case of interfering with telephone communications (already reduced on review to 3 yrs): one is a case of armed riot; and the last is also interfering with telephone communications on FOG IA aerodrome.

4. These are not cases in which a harsh sentence was imposed because of "military consideration which no longer prevail;" therefore they do not come with in the class of cases which are reconsidered.

K.

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

Enc: Record of proceedings
of 6 cases.

21

See 5/11/10/15
4102/11L

REAR HEADQUARTERS
MILITARY CONTROL COMMISSION
Legal Sub-Commission
APO 394

IC/jpl

ACC/4083/1/L

25 May 44

540

Subject : Case of LUCCHESI Carmelo.

To : Regional Legal Officer, (taru RC) Region I.

1. The enclosed memo concerning LUCCHESI Carmelo has been handed to this Sub-Commission for information.

2. Our records show that LUCCHESI Carmelo was sentenced to two years imprisonment and that the said sentence was affirmed on Review, on 24 Jan. 44.

3. The reference to a reduction of the penalty to 4 months is not understood.

4. Will you please investigate and report, returning the enclosed memorandum at the same time.

5. The record in this case is not among those forwarded for "re-review."

RE

Encl : 1 memo.

GERALD R. UPTON
Colonel
Chief Legal Officer.

20

ALLIED CONTROL COMMISSION
SICILY REGION HEADQUARTERS
APO 394

File : RLS 013.047/FHV

30th May 1944

SUBJECT : Case of LUCCHESI Carmelo

TO : Legal Sub-Commission, A.C.C. Headquarters (REAR)

1. Reference ACC/4083/1/L dated 25th May 1944.
2. A check of our records show that LUCCHESI Carmelo was sentenced to two years imprisonment and that the said sentence was affirmed on review on the 24th January 1944.
3. No reduction in sentence has been authorised by this office.
4. The late Provincial Legal Officer of RAGUSA recommended a reduction in sentence to 4 months imprisonment under Exec. Memo. No.7 dated 12th February 1944, on the grounds that an exemplary punishment was imposed and in view of the age of the accused (60 years).
5. The record of this case which was forwarded to the P.L.O. RAGUSA with the review decision, has never been returned to this office and appears to have been mislaid at RAGUSA. All efforts are being made to recover the missing documents.
6. No further information can be given on this matter at the present time.

For Colonel WILLIAM R. JORDAN:

Frank L. Vecchiolla
FRANK L. VECCHIOLLA
Major, JAGD.
Regional Legal Officer.

js.

see

576

ALLIED CONTROL COMMISSION
SICILY REGION HEADQUARTERS
APO 394

File RLE 013.047/FLV

7th June 1944

SUBJECT : LUCCHESI Carmelo

TO : Legal Sub-Commission, A.C.C. Headquarters (REAR)

Reference your ACC/4083/1/L dated 2nd June 1944.

The memorandum forwarded under your letter 4083/1/L dated 25th May 1944 is forwarded herewith.

For Colonel A.N. HANCOCK:

Frank L. Vecchiolla
FRANK L. VECCHIOLLA
Major, JAGD.
Regional Legal Officer.

js.

ENCL.1 - Promemoria per Il Tenente Grottanelli.

- 1108*
- ① Given 2 yrs
 - ② Not reduced on Review
 - ③ P.L.O. RAGUSA recommended (under Ex. Minis No 7 of 12 Feb) reduction of sentence on grounds that this was an exemplary sentence
 - ④ Put & keep into Sicily "Re-Review" cases
 - ⑤ Reduced on "re-review" by susp. of 15 months (see 408/1/L of 18 Jun) / 18

Suspend 15 months

1212

REAR HEADQUARTERS
ALLIED Control Commission
Legal Sub-Commission
APO 394

/jpl

400/4083/1/L

2 June 44

Subject: LUCCHESI Carmelo

To : Regional Legal Officer, Region I.

Reference your letter RLE 013.047/RLV dated 30 May 44, and
this H.Q.'s letter 4083/1/L dated 25 May 44.

1. Please return the memorandums forwarded with the above mentioned
letter 4083/1/L dated 25 May 44.

10
GERALD R. DENTON
Colonel
Chief Legal Officer.

2-15-44
CS
File 108311
Duplicate copy

ALLIED CONTROL COMMISSION
SICILY REGION HQ.
APO 394

10 March 1944

File: RLE 613.04/HD

SUBJECT: Review of Cases under Executive Memorandum No. 7.

TO : C.L.C., A.C.C. HQ. (Salerno) APO 394.

1. In accordance with the instructions contained in Memorandum No. 7, all cases tried by Allied Military Courts have been reviewed at this HQ and recommendations have been obtained from Provincial Legal Officers in regard to any cases in which they considered there were grounds for a modification of sentence. The accompanying files contain 45 individual cases, which appear to justify re-consideration.

2. The cases submitted have been divided into five Groups as follows:

- a. Group 1. Wire-cutting cases where sentences of one year or over have been imposed.
- b. Group 2. Cases where changed circumstances may justify clemency.
- c. Group 3. Cases where sentence appears greatly in excess of average for similar offenses.
- d. Group 4. Cases where modification is asked on grounds of good record or hardship.
- e. Group 5. Riots and disturbances.

3. Particulars of the cases will be found in each file and all relevant papers are attached, except as to Group 5 which is submitted for advice on general policy in the first instance.

For Lt. Col. HANCOCK:

H. M. DICKIE,
Squadron Leader R.A.F.,
Regional Legal Officer.

NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

18 Jun 44

REFERENCE : ACC/4083/1/L.

SUBJECT : Reconsideration of cases : Executive Memorandum No.7.

TO : RLO (thru RC) Region 1.

1. Ref. RLB GIB.04/ND of 10 Mar.44 .

2. The cases submitted have been considered at this HQ, and are returned herewith.

3. The decisions taken as a result of such consideration are set out in the column provided for the purpose on the forms enclosed by your HQ with each group of cases.

4. In coming to those decisions, the principle has been adhered to that the cases have already been adjudicated and reviewed, and that the object of this re-consideration is only to avoid any injustice in cases " in which severe sentences were originally passed and subsequently confirmed because of military considerations which no longer prevail" - See Executive Memorandum No.7 para 2 (f) (i).

5. The following points arise :

Group 1.

Decisions coincide with suggestions of former Regional Legal Officer. No comment is required.

Group 2.

Ficarra and Galieto. This case was very carefully considered on review and the sentences very substantially modified : no further reduction of sentence will be made. The case of La Spina and others (now enclosed with group 2) was submitted for re-consideration as it was suggested that the sentences were out of line with those in the case of Ficarra and Galieto. In the latter case the sentences as modified are 20 years and 8 years. - The 8 years being on account of certain mitigating circumstances. It is, therefore, considered that the sentences in these two cases are not out of line : no reduction of sentences in the case of La Spina and others will be made. No other comment is required on this group.

Group 1.

Considerable reductions in sentence have been effected in certain cases, mostly in conformity with the opinion of the former Regional Legal Officer. The only case calling for comment is that of Guarisco and 3 others. In this case, a departure has been made from the underlying principle (see para 3 above) of this re-consideration. It appears that the Court in this case accepted the evidence of the women involved : that being so, it follows that all 4 accused were equally guilty of being in possession of firearms : therefore 18 months of the sentence imposed on Guarisco is suspended to bring his sentence into line with the sentences imposed on the other 3 ^{men} sentences which seem reasonable in view of the fact that they were abroad by night in Trapani Province with firearms in Sept. 43 .

Group 4.

No specific comment required : again, certain reductions have been made mostly in conformity with the opinion of the former Regional Legal Officer.

Group 5.

In considering this group of cases (riot cases) it is to be borne in mind that riots are, or may be, serious and dangerous at any time : therefore they do not inherently fall under the class of case in which " a heavy sentence is passed because of military considerations which no longer prevail" .

Garaci riot. It is shown that as a result of this riot much material was damaged and 14 people were killed. The maximum sentence imposed was 3 years imprisonment which seems reasonable or indeed light. No reduction is made.

Mistretta riot. In this case heavier sentences were imposed - up to 10 years (of which 3 years were suspended). These sentences are not considered either unreasonable (having regard to the fact that these men used hand grenades) or as having been imposed on account of "military considerations which no longer prevail". No reduction is made.

Alia riot. Except for the one man dealt with separately, no sentence of over 1 year was imposed : no reduction is made.

Trapani riot and Sandomici riot. These papers are no longer at this Hq. If any particularly heavy sentences were imposed in either of these cases on account of military considerations or for any other special reason, please forward the necessary papers stating which sentences you think should be re-considered and giving your reasons. The papers need not be forwarded unless the sentences were due to some such considerations.

Paterno riot. These papers also are no longer at this HQ: but the writer of this letter was a member of the Court and is satisfied that no such considerations influenced the Court in imposing sentence. It is therefore not necessary to forward the papers as no reason exist for modifying the sentence imposed.

6. In considering these sentences it is to be borne in mind that the Italian practice of granting provisional liberty after a portion of the sentence has been served applies: see Ex. Memo No. 7 para 2 (f) (1) .

7. Regional HQ will give effect to the decisions set out as mentioned in para 2 above. It will be noticed that in a few cases immediate action is required.

1c
GERALD R. UPJOHN,
Colonel,
Chief Legal Officer.

ALLIED CONTROL COMMISSION
SICILY REGION HQ.

APO 394

File: RLE C13.04/HD

10 March 1944

SUBJECT: Review of Cases under Executive Memorandum No. 7.

TO : C.L.C., A.C.C. HQ. (Salerno) APO 394.

1. In accordance with the instructions contained in Memorandum No. 7, all cases tried by Allied Military Courts have been reviewed at this HQ and recommendations have been obtained from Provincial Legal Officers in regard to any cases in which they considered there were grounds for a modification of sentence. The accompanying files contain 45 individual cases, which appear to justify re-consideration.

2. The cases submitted have been divided into five Groups as follows:

- a. Group 1. Wire-cutting cases where sentences of one year or over have been imposed.
- b. Group 2. Cases where changed circumstances may justify clemency.
- c. Group 3. Cases where sentence appears greatly in excess of average for similar offenses.
- d. Group 4. Cases where modification is asked on grounds of good record or hardship.
- e. Group 5. Riots and disturbances.

3. Particulars of the cases will be found in each file and all relevant papers are attached, except as to Group 5 which is submitted for advice on general policy in the first instance.

For Lt. Col. HANCOCK:

Harry Dickie
H. M. DICKIE,
Squadron Leader R.A.F.,
Regional Legal Officer.

jd

Incl: Files

NOTE: The above group of cases, which includes all wire-cutting cases where sentences of one year or over have been imposed, is submitted for reconsideration on the following grounds:

1. This type of case is no longer so prevalent owing to the withdrawal of Military Units.
2. The sentences were intended to have a deterrent effect and were therefore particularly severe in several cases. (See the recommendations of the Court in Cases 4 and 5)
3. In no case was there evidence of sabotage. The facts were almost always the same - namely the cutting or carrying away of lengths of wire by peasants of low intelligence, who alleged in their defense that they thought the wire was abandoned and took it for purposes in connection with their homes or farms.
4. It is suggested that uniformity would be achieved and justice done if the prison sentence in each case were suspended after one year.

John Dickie Jr.
R.L.O.

ALLIED CONTROL COMMISSION - REGION I

10

<u>Cases submitted for reconsideration</u>					<u>Group I</u>
<u>Name of Accused</u>	<u>Age of Accused</u>	<u>Court and Place of Trial</u>	<u>Date of Trial</u>	<u>Ser</u>	
1. MUSUMECI Sebastiano	45	Gen. Syracuse	24/8/43	20	
2. LAURETTA Giovanni	—	" "	8/9/43	5	
3. PETINO Sebastiano	21	" "	8/9/43	5	
4. CATANESE Gaspare	47	" Palermo	3/9/43	5	
5. MAGNASCO Giuseppe	—	" "	3/9/43	3	
6. GUGLIELMINO Francesco	35	Sup. Catania	5/10/43	2	
7. CIMINO Domenico	—	" "	9/10/43	2	
8. LEONARDI Salvatore	50	" "	12/10/43	2	
9. LICATA Caruso	57	" Caltanis- etta	2/9/43	1	
10. TERZZO Giuseppe	19	" Syracuse	17/9/43	1	
11. RUSSO Antonino	45	" Catania	16/10/43	1	
12. GRASSO Salvatore	40	" "	16/10/43	1	
13. DE LINTINI Rocco	40	" "	16/10/43	1	
14. MARICONDE Angelo	17	" Caltagir- one	22/10/43	1	

ALLIED CONTROL COMMISSION - REGION I

12

Wire Cutting CasesDecision on ReviewGroup IAge of
accusedCourt and
Place of
TrialDate of
TrialSentence

<u>Age of</u> <u>accused</u>	<u>Court and</u> <u>Place of</u> <u>Trial</u>	<u>Date of</u> <u>Trial</u>	<u>Sentence</u>	<u>Decision on Review</u>
45	Gen. Syracuse	24/8/43	20 yrs Imp.	Sentence reduced to 1 yr's imp.
---	" "	8/9/43	5 " "	" "
21	" "	8/9/43	5 " "	" "
47	" Palermo	3/9/43	5 " "	" "
---	" "	3/9/43	3 " "	" "
35	Sup. Catania	5/10/43	2 " "	" "
---	" "	9/10/43	2 " "	" "
50	" "	12/10/43	2 " "	" "
57	" Caltanis-	2/9/43	1 " "	No reduction
19	" etta	17/9/43	1 " "	No Reduction
45	" Syracuse	16/10/43	1 " "	No reduction
40	" Catania	16/10/43	1 " "	No reduction
40	" "	16/10/43	1 " "	No reduction
17	" Galtagir-	22/10/43	1 " "	No reduction
	one			

53

ALLIED CONTROL COMMISSION - REGION I

Cases submitted for reconsiderationGroup 2

<u>Name of Accused</u>	<u>Age of Accused</u>	<u>Court and Place of Trial</u>	<u>Date of Trial</u>	<u>Offense</u>
1. FIGARRA Andrea	41	Gen. Palermo	11/12/43	Robbing the dead.
1. GALIOTO Salvatore	30	" "	" " "	" "
2. GIORDANO Salvatore	54	Sup. Catania	8/11/43	Robbing the dead.
3. FUGGETTA Vincenzo	--	Gen. Syracuse	22/9/43	Assisting the enemy.
4. SACCOMANNO Biagio	30	Gen. Canicatti	27/8/43	Plunder
LA PORTA Diego	40	" "		
5. La Spina Salvatore		Gen. Catania	12/1/44	Robbing Dead
osentino Carmelo		" "	"	"
Cannevo Salvatore		" "	"	"
osentino Alfio		" "	"	"
Privitera Angelo		" "	"	"
Sorbello Michele		" "	"	"
Fichera Giovanni		" "	"	"
Bonnano Pasquale		" "	"	"

X This case has been added to the form by red itee, the papers having been filed for reconsideration later.

ALLIED CONTROL COMMISSION - REGION 1

ation

Group 2

Cases where review requested owing to changed circumstances.

<u>Court and Place of Trial</u>	<u>Date of Trial</u>	<u>Offense</u>	<u>Sentence</u>	<u>Decision on Review</u>
Gen. Palermo	11/12/43	Robbing the dead.	20 yrs Imp.	No Reduction.
" "	" " "	" "	8 yrs Imp.	"
Sup. Catania	8/11/43	Robbing the dead.	10 yrs Imp.	"
Gen. Syracuse	22/9/43	Assisting the enemy.	2 yrs Imp.	"
Gen. Canicatti	27/8/43	Plunder	1 yr Imp. 1 yr Imp.	"
" "				"
Gen. Catania	12/1/44	Robbing Dead	15 yrs imp.	"
"	"	"	12 yrs. imp.	"
"	"	"	5 yrs. imp.	"
"	"	"	3 yrs. imp.	"
"	"	"	10 yrs imp.	"
"	"	"	3 yrs. imp.	"
"	"	"	3 yrs. imp.	"
"	"	"	Not Guilty	"

ALLIED CONTROL COMMISSION ~~2~~ REGION ICases submitted for reconsiderationGroup 3

<u>Name of Accused</u>	<u>Age of Accused</u>	<u>Court and Place of Trial</u>	<u>Date of Trial</u>	<u>Offense</u>
1. SPATAZZA Giuseppe	45	Sup. Agrigento	18/9/43	Poss. of Arms and Mil. Property
2. LAURICELLA Sebastiano	51	" "	18/9/43	Poss. of Arms
3. AMBENTA Sebastiano	—	Gen. Syracuse	23/10/43	" " "
4. SALERNO Salvatore	—	" "	8/9/43	" " "
5. GUARISCO Francesco	19	Sup. Trapani	8/9/43	" " "
PALERMO Vincenzo	19			
MESSINA Carlo	20			
PIZZOLATO Leonardo	20			
6. LO PIANO Salvatore	—	Sup. Caltanissetta	5/11/43	" " "
7. VERME Alfonso	46	Sup. Agrigento	24/9/43	Poss. of A.M. Property
8. TROVATO Mario	—	Sum. Catania	21/10/43	Purchasing pigs without permit & trading with sale of meat fish above fixed price
9. NASO Giuseppe	31	Sup. Palermo	20/8/43	
VETRANO Salvatore	37	" "	21/8/43	
GAMBINO Carmelo	50	" "	18/8/43	
ADDED/ 10. LUCCHESI Carmelo		Sup. Ragusa	23/11/43	

ALLIED CONTROL COMMISSION REGION I

<u>Generation</u>	<u>Group 3</u>	<u>Cases where sentence appears greatly in excess of average for similar offenses</u>			
<u>Age of Accused</u>	<u>Court and Place of Trial</u>	<u>Date of Trial</u>	<u>Offense</u>	<u>Sentence</u>	<u>Decision on Review</u>
45	Sup. Agrigento	18/9/43	Poss. of Arms and Mil. Property	10 yrs Imp.	7 Years suspended.
51	" "	18/9/43	Poss. of Arms	10 yrs Imp.	7 Years suspended.
—	Gen. Syracuse	23/10/43	" " "	7 yrs Imp.	5 years suspended.
—	" "	8/9/43	" " "	5 yrs Imp.	2 years suspended.
19	Sup. Trapani	8/9/43	" " "	3 yrs Imp.	18 months suspended 4 yrs
19				1 1/2 yrs Imp.	No reduction
20				1 1/2 " "	No reduction
20				1 1/2 " "	No reduction.
—	Sup. Caltanissetta	5/11/43	" " "	3 yrs Imp.	2 years suspended.
46	Sup. Agrigento	24/9/43	Poss. of A.M. Property	2 yrs Imp.	1 year suspended.
—	Sum. Catania	21/10/43	Purchasing pigs without permit & travelling without permit	Fine 100 L. Confiscation of pigs worth 32,500 L.	Direct that sum of 16,250 lire be refunded.
31	Sup. Palermo	20/8/43	Sale of meat	1 yrs Imp.	
37	" "	21/8/43	fish above fixed price	" " "	Sentence suspended with effect from receipt hereof.
50	" "	18/8/43		9 Mos. & fine 3,000 lire.	" "
	Sup. Ragusa	23/11/43		2 yrs.	Sentence expired. 15 months suspended.

ALLIED CONTROL COMMISSION - REGION ICases submitted for reconsiderationGroup 4

<u>Name of Accused</u>	<u>Age of Accused</u>	<u>Court and Place of Trial</u>	<u>Date of Trial</u>	<u>Offense</u>
1. MASOALI Antonio	46	Sup. Catania	26/11/43	Arms
2. SORRISI Francesco	69	" Palermo	16/12/43	"
3. DI MARCO Rosario	60	" "	16/12/43	"
4. MUSUMECI Salvatore	32	Sum. Catania	9/10/43	Poss. of Property
5. FIGARRA Salvatore	28	" Palermo	10/11/43	"
6. BUONANTI Ameleto	--	Sup. Messina	4/10/43	Plunder
7. DI GIROLAMO Vincenzo	38	Sup. Agrigento	26/10/43	Travelling and using AMG vehicle without pe- mit

ALLIED CONTROL COMMISSION - REGION IHardship and good conduct cases

<u>Number of</u> <u>Accused</u>	<u>Court and</u> <u>Place of Trial</u>	<u>Date of</u> <u>Trial</u>	<u>Offense</u>	<u>Sentence</u>	<u>Decision on</u> <u>Review</u>
	<u>Group 4</u>				
46	Sup. Catania	26/11/43	Arms	3 yrs Imp.	TWO years suspended
69	" Palermo	16/12/43	"	1 1/2 yrs Imp.	NINE months suspended.
60	" "	16/12/43	"	1 yr Imp.	Balance of sentence suspended with effect from receipt hereof.
32	Sum. Catania	9/10/43	Poss. of Property	1 yr Imp.	Balance of sentence suspended with effect from receipt hereof.
28	" Palermo	10/11/43	"	1 yr Imp.	Balance of sentence suspended with effect from receipt hereof.
—	Sup. Messina	4/10/43	Plunder	3 yrs Imp. No Reduction (2 suspended)	
38	Sup. Agrigento	26/10/43	Travelling and using AMG vehicles without per- mit	2 yrs Imp. (1 suspended) Fine 20,000 Lire	No Reduction. Action, if appropriate, under Consolidated instructions for A.M. Courts Article 36.

ALLIED CONTROL COMMISSION - REGION ICases submitted for reconsiderationGroup 51. GERACI RIOTCase tried by General Court, Palermo 1 - 6/10/43

GIACONIA Bartolo	3 yrs Imprisonment
GIACONIA Luigi	3 " "
MARANNO Mariano	3 " "
PORRIVECCHIO Gaetano	3 " "
PAGANO Francesco	2 " "
CARPEZZA Bartolo	1 " "
CICERO Paolo	1 " "
8 others	6 Months (expired 1/3/44)
12 others	2 " (expired 1/11/43)

*No
sub-fence*

These seven men v
ticipants in the riot
directed against certa
office under the Fasci
after the occupation.
14 people were killed
some boxes of powder

2. MISTRETTA RIOTCase tried by General Court, Mistretta 28-29/10/43

CIMINO Salvatore	(19) 10 yrs Imp. (3 suspended)
GIUFFRÉ Salvatore	(20) 10 " " (" ")
FIGLIORE Antonino	(19) 7 " " (2 suspended)
DE VITA Carmelo	(18) 5 " " (" ")
BARBERA Calogero	(19) 2 " "
CENI Giuseppe	(19) 1 1/2 yrs Imp.
CONIERI Antonino	(17) 1 yr Imp.
PELLEGRINO Antonino	(19) 1 " "
ALBERTI Lucio	(24) 1 " "
REBAUDO Giuseppe	(19) 6 Months (expires 28/4/44)
CANNATO Antonino	(18) 2 " (expired 28/12/43)

All these men to
tretta on 9/9/43, the
riot was directed aga
food shortages and la

Capt. Matthews s
be referred to Colone
reconsideration in vi
return of more settle

ALLIED CONTROL COMMISSION - REGION IGroup 5Riots and disturbancesPal Court, Palermo 1 - 6/10/43

Comment

*No
interference*

These seven men were found to be ringleaders or participants in the riot which took place on 24/8/43 and was directed against certain prominent citizens who had held office under the Fascist regime and were still in control after the occupation. Much material damage was done and 14 people were killed as a result of an explosion when some boxes of powder were thrown on a fire.

expired 1/3/44)

expired 1/11/43)

Pal Court, Mistretta 28-29/10/43

(3 suspended)

(" ")

(2 suspended)

(" ")

All these men took part in the demonstrations at Mistretta on 9/9/43, the first four using hand grenades. The riot was directed against Commune officials and arose out of food shortages and lack of police authority.

Imp.

Capt. Matthews suggests that the four heaviest sentences be referred to Colonel Pollock, President of the Court, for reconsideration in view of the youth of the accused and the return of more settled conditions in the Province.

expires 28/4/44)

expired 28/12/43)

3. ALIA RIOTTried by Summary Court at Alia 28/11/43

RIZZOTTO Mariano	(38)	1 yr Imprisonment
FORTI Giovanni	(39)	" " "
SCOZZARI Giuseppe	(18)	" " "
SCOZZARI Alfonso	(20)	" " "
ALESSI Ferdinando	(24)	" " "
CARDINALE Santo	(24)	" " "
BOUCELLONA Salvatore	(34)	" " "
D'ARRIGO Cosmeo	(20)	" " "
MINELLA Vincenzo	(32)	" " "

Participants
when Municipal off
a bomb thrown whic
tion was on, a small
recommended that t
the crowd, might b
who had the hand g
received a sentenc

4. TRABIA RIOTTried by General Court at Trabia Dec. 1943

All documents now at A.C.C. HQ. under review.

5. MANDONICI RIOTTried by Superior Court at Messina 17-24/12/43

All documents now at A.C.C. HQ. under review. Capt. Matthews the case of DI BELLA Sebastiano who was sentenced to 3 years

6. PATERMO RIOTTried by General Court at Catania 13-16/1/44

All documents now at A.C.C. HQ. under review.

NOTE: The above group of cases is submitted for consideration as to general policy to their bulk, but they can be sent if required.

All these disturbances arose out of discontent by reason of the food shortage the Communal officials, who in some instances had been in office under the tried conditions would justify some clemency, but having regard to the present authorities do not recommend any general reduction in sentences. It is requested in conjunction with Col. Pollock, who is familiar with Nos. 1 & 2 above and Lt. In case No. 3 a suspension of part of the sentence is recommended.

Y Court at Alia 28/11/43

isonment

Participants in a food demonstration on 25/11/43 when Municipal offices were damaged, papers burnt and a bomb thrown which injured 5 persons. This demonstration was on a smaller scale than the others and it is recommended that these accused, who were only members of the crowd, might be released after 6 months. The man who had the hand grenade was dealt with separately and received a sentence of 10 years.

al Court at Trabia Dec. 1943

A.C.C. HQ. under review.

rior Court at Messina 17-24/12/43

A.C.C. HQ. under review. Capt. Matthews recommends a reduction of sentence in Sebastiano who was sentenced to 3 years imprisonment.

ral Court at Catania 13-16/1/44

A.C.C. HQ. under review.

ed for consideration as to general policy. No documents are forwarded owing if required.

of discontent by reason of the food shortages and were directed primarily against the instances had been in office under the Fascist Regime. The return to more clemency, but having regard to the present political situation, the Police authorities reduction in sentences. It is requested that the question be considered in is familiar with Nos. 1 & 2 above and Lt. Col. Behrens who tried Nos. 4 & 6. of the sentence is recommended.

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

12 February 1944.

EXECUTIVE MEMORANDUM)

NUMBER 7)

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

INSTRUCTIONS TO LEGAL OFFICERS IN
REGIONS TRANSFERRED TO THE ITALIAN
GOVERNMENT.

1. GENERAL.

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

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

(c) It will continue to be the duty of the Chief Legal Officers in the Regions to advise the Regional Commissioner (R.C.s) on all legal matters affecting the Region. This directive is intended in part to assist the Chief Legal Officers in the Regions in giving advice to the R.C.s in connection with the newly acquired powers and duties of ACC personnel in the field. It must be appreciated that in furnishing such advice, as pointed out in para (a) above, the position has essentially changed and the powers of military government have ceased and are superseded by the Armistice Terms. In particular and subject to any special directives that may be issued the functions of the R.C.s cease to be executive and become purely advisory and supervisory. Orders are no longer given by the R.C.s but by the Italian Administrative officials and it is the duty of the R.C.s within his region to see that the Italian Administration carries out the orders received from higher Italian authority (as to which the R.C.s will be duly informed) and to report to HQ ACC any failure to do so. It will no longer be within the province of the R.C.s to issue proclamations and General or Regional Orders, but to advise and supervise the local authorities in such matters. It follows that in the initial stages and until the Italian Government has proved its capacity to govern, a number of problems may arise which will have, as a matter of policy, to be referred to HQ ACC, but in matters of urgency Chief Legal Officers in the

territory and the relationship between A.C.C. and the Italian Government depend entirely on contract. Such contract is contained in the Armistice Terms, and forms the charter of A.C.C.

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

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

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

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

2. ALLIED MILITARY COURTS.

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

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

- (i) Any person convicted by an Allied Military Court may, within thirty days after imposition of sentence, file with the trial court or forward to the Chief Legal Officer in the Region a petition addressed to the Chief Commissioner submitting reasons why the conviction should be set aside or the sentence should be modified.
- (ii) Every record of trial by an Allied Military Court shall be transmitted to the Chief Legal Officer in the Region for examination and file. The record in any case may on the recommendation of the Chief of the Legal Subcommittee, and shall, in the event of the sentence exceeding two years imprisonment or a fine of L.50,000 be reviewed by the Chief Commissioner or by an ACC Officer not below the rank of Lieutenant Colonel who may be appointed by the Chief Commissioner for that purpose. When there has been no petition of appeal as above provided and the sentence does not exceed two years imprisonment or a fine of L.50,000 the Chief Legal Officer in the Region shall review the case and may appoint a judicial officer not below the rank of Major for that purpose. Confirmation of death sentences remains as heretofore.
- (c) If Military Zones are established in unoccupied territory and Allied Military Courts function therein, Summary and Superior Military Courts will be established either by the Commanding Officer, if the power to do so has been delegated to him or by the RC, if still functioning; otherwise by HQ ACC. A General Military Court may be established only by HQ ACC.
- (d) If Allied Military Courts are to be set up at all in any other part of unoccupied territory, the requisite Military Court, will be established by HQ ACC at the request of the RC concerned. A separate Directive with regard to the constitution and mode of application for such courts will be issued.
- (e) All cases tried by Allied Military Courts referred to in 2 (c) and (d) above, will be reviewed solely by HQ ACC until further order.
- (f) In closing the activities of the Legal Division of any region as to Allied Military Courts the following specific acts among others shall be performed by the Chief Legal Officer in the Region, or as he shall direct:
- (i) The Italian Government will be required to carry out all sentences imposed by Allied Courts as though imposed by their own Courts. However, all cases in which a conviction has resulted and the sentence has not been fully executed will be reexamined and in appropriate cases recommendation for pardon or modification will be made to the RC & MJ Section, ACC, for the Legal Subcommittee, with reasons therefor. All cases in which severe sentences were originally passed and subsequently confirmed, because of military considerations which no longer prevail should therefore be reconsidered by the Chief Legal Officer in the Region with the advice, where possible, of the presiding officer who tried the case, and the Chief Legal Officer in the Region should forward his recommendation.

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

(e) All cases tried by Allied Military Courts referred to in 2 (c) and (d) above, will be reviewed solely by HQ ACC until further order.

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

(i) The Italian Government will be required to carry out all sentences imposed by Allied Courts as though imposed by their own Courts. However, all cases in which a conviction has resulted and the sentence has not been fully executed will be reexamined and in appropriate cases recommendation for pardon or modification will be made to the RC & MJ Section, ACC, for the Legal Subcommittee, with reasons therefor. All cases in which severe sentences were originally passed and subsequently confirmed, because of military considerations which no longer prevail should therefore be reconsidered by the Chief Legal Officer in the Region with the advice, where possible, of the presiding officer who tried the case, and the Chief Legal Officer in the Region should forward his recommendation to the Legal Subcommittee, HQ ACC. This is not to be regarded as an invitation to a general reduction in sentences especially having regard to the Italian practice (which will be applicable to these cases) of granting provisional liberty after a portion of the sentence has been served.

(ii) A careful check of outstanding fines will be made, steps will be taken to collect unpaid fines and a report will be made to the Chief of the Legal Subcommittee at HQ ACC.

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

3. WAR CRIMES.

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

4. ITALIAN LEGISLATION AND LAWS.

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

Amendments to rules of procedure which have been initiated during AMG will, however, be continued by the Italian Administration and any departure from such amendments will forthwith be reported to HQ ACC.

5. DETAINÉES.

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

6. ITALIAN MILITARY TRIBUNALS.

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

7. ITALIAN COURTS GENERALLY.

All civil and criminal courts functioning at the date of the restoration of territory to the Italian Government will continue to function and any attempt

Amendments to rules of procedure which have been initiated during AMG will, however, be continued by the Italian Administration and any departure from such amendments will forthwith be reported to HQ ACC.

5. DETAINEES.

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

6. ITALIAN MILITARY TRIBUNALS.

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

7. ITALIAN COURTS GENERALLY.

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

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

The above does not apply to any Corte di Cassazione which will only be reconstituted under the orders of HQ ACC.

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

8. JUDGES AND OFFICIALS OF COURTS.

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

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

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

the consent of HQ ACC.

- (iv) To report to HQ ACC (through Regional HQ) any cases of biased or incompetent behavior on the part of judges or officials which come to his notice and to investigate any complaints received from an advocate or prisoner of unfair treatment by an Italian Court, and if the complaint appears to be well founded to forward a report and recommendation to HQ ACC (through Regional HQ).
- (v) Generally to keep Regional HQ and HQ ACC advised of all relevant matters in the Court of Appeal District such as the Reorganization of the Bar Association, the holding of examinations for advocates or procuratori, the reorganization of Notarial Councils and so forth.
- (c) Chief Legal Officers in the Regions will inform HQ ACC of the officers appointed as liaison officers to First Presidents as soon as possible.
- (d) Committees already sitting to consider the appointment of judges and officials will be abolished unless the First President desires their continuance, nor will it be the duty of the Chief Legal Officers in the Regions to take any steps to fill any vacancies to Italian Legal offices.
- (e) If a list of judges has not already been compiled and sent to HQ ACC the Chief Legal Officers in the Regions will compile a list of all judges and legal officials in officer and forward it to HQ ACC as soon as possible.

9. CONCLUSION OF DUTIES OF LEGAL OFFICERS.

- (a) Any Legal Officer in the Region who has completed his work may be ordered by the RC to another post in the Region to assist another officer to complete his work or be otherwise assigned in the Region as circumstances warrant.
- (b) When Legal Officers have completed all cases and have performed all other duties assigned to them, they will so report to the Chief Legal Officer in the Region and he in turn will so report to the Legal Subcommission, HQ ACC. If then so ordered they will close their offices and report in person to the Chief Legal Officer in the Region with all records and equipment other than that which has been requisitioned and turned back to the owners upon receipt from them.
- (c) It is essential that all Legal Officers complete their work with the utmost expedition, as their services are urgently required in occupied territory.

By Command of Lieutenant General MASON MACFARLANE.

M. S. LUCH
Brigadier,
Executive Commissioner.

1056