

ACC

10000/142/147

JURISDICTION OVER OFFENSES A  
FEB. 1944 - JUN. 1945



10000/142/147

JURISDICTION OVER OFFENSES AGAINST ALLIED INTERESTS  
FEB. 1944 - JUN. 1945



AC /4011/2/LEGAL

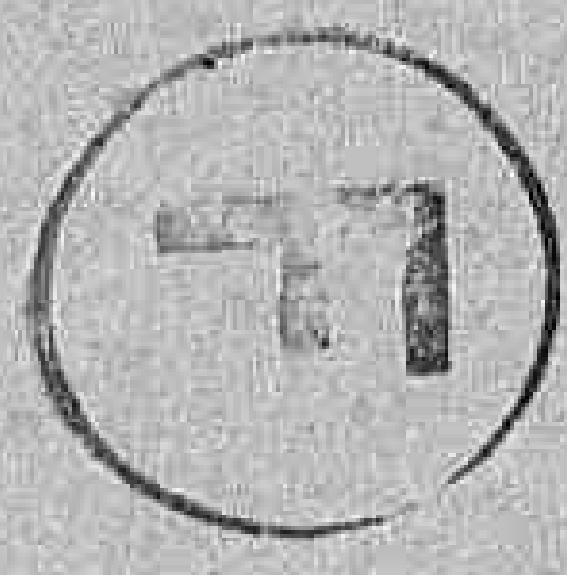
OPENED : 11 February 1944

CLOSED : 21 June 1945

*RESTRICTED*

SUBJECT : JURISDICTION OVER OFFENCES AGAINST ALLIED INTERESTS (ART 3 OF HDL-N031 -

11 FEBRUARY 1944.)



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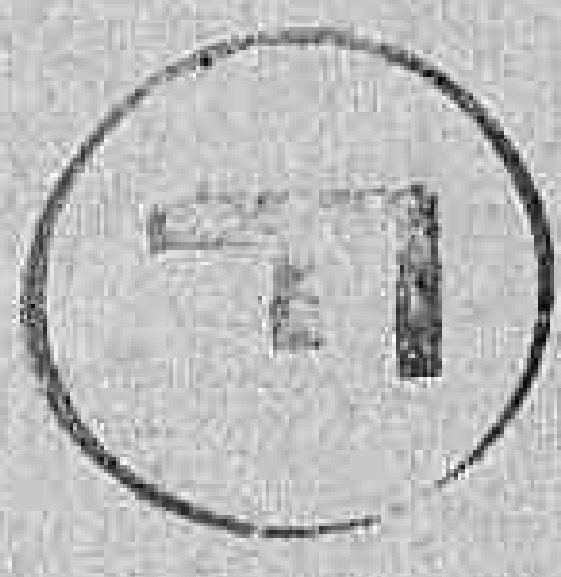
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10000 / 142 / 147



SUBJECT : JURISDICTION OVER OFFENCES AGAINST ALLIED INTERESTS (ART 3 OF HDL-N831 -

11 FEBRUARY 1944.)



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canon

10000 / 142 / 147

THIS FOLDER  
CONTAINS PARCERS  
FROM FEB 44  
TO JUNE 45  
CATALOGUE.

RESTRICTED

READY FOR ARCHIVES :

10000 100000000



HEADQUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

AG/1058/2/L.

WEB/pa.  
21 Jun 45.

SUBJECT : Cases affecting Allied interests, Toscana Region.  
TO : H. E. The Minister of Pardon and Justice.

1. This is to inform Your Excellency that, following the recent transfer of territory to the Italian Government, the Senior Legal Officer Livorno Comune will act as liaison officer in legal matters between the Allied Forces and the Italian Courts having jurisdiction in the provinces of Toscana Region which are under the administration of the Italian Government. This does not, of course, apply to the Provinces of Lucca or Apuania or to those courts in the Provinces of Pisa and Livorno which are still subject to Allied Military Government.

2. It will be appreciated if Your Excellency would cause notification to be made to the Procuratore Generale of Firenze and to all Procuratori del Regno concerned that lists of cases affecting Allied interests should be submitted monthly to this liaison officer.

3. If the lists are not forthcoming the liaison officer has been instructed to approach the Procuratore Generale on the matter.

K. E. BEHRENS,  
Colonel, 1 27  
Chief Legal Advisor.

Copy to : Liaison Officer, Allied Commission, LIVORNO Comune.



HEADQUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

AC/ADM/2/L.

WJB/et.  
9 April 1945.SUBJECT : Vesting of Italian authorities with jurisdiction of  
proclamation offenses.TO : Regional Commissioner (Attn: Regional Local Officer),  
TUSCANY Region.

1. I am obliged to you for your letter XVII/19/2002 of 5 April 1945.
2. Unfortunately there was no copy of Florence City Order 21 annexed to your report and it is difficult to give definite advice thereon.
3. It occurs to me, however, that it is contrary to international law for an occupying power to compel local courts to award higher penalties for crimes against their own law than they are permitted to do under their own laws. It makes no difference if the domestic law is reenacted as a law of the occupying power. In such case the occupying courts can, of course, award such penalties as they proclaim, but this does not apply to the local courts. It is indeed a matter which is much argued by jurists whether local courts have any jurisdiction to try proclamation offenses at all.
4. However, I gather that the local courts are quite agreeable to the order so these points do not arise.
5. I agree with the objections you mention in your letter, but as the penalties are in fact small, I propose to take no action.

By command of Rear Admiral STONE:

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

26



404/2  
HEADQUARTERS  
TOSCANA REGION  
ALLIED MILITARY GOVERNMENT

28A

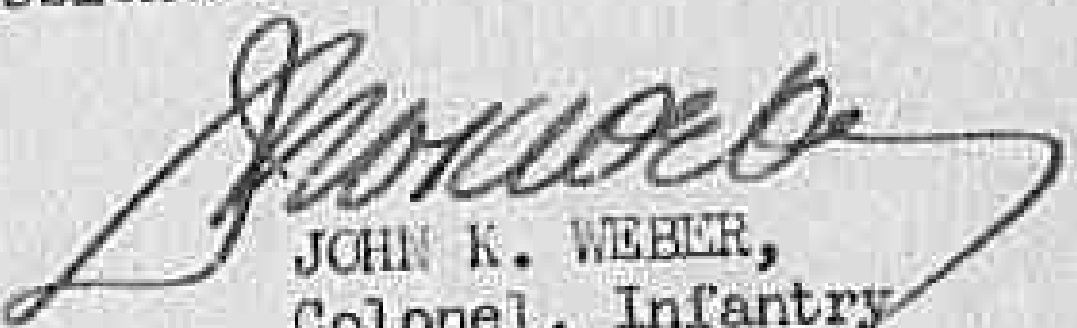
Date: 5 April 45.

File Ref: 6011/19/2002

SUBJECT: Vesting of Italian Authorities with Jurisdiction of Proclamation offenses.  
TO : LEGAL SUB-COMMISSION, HEADQUARTERS AG.  
(Attention Colonel W.E. Behrens).

1. I deem it important to direct your attention to that part of the monthly report, - page 2, 'Florence', - wherein the S.C.A.O. AMG 5th Army ordered that the Italian Pretura be vested with jurisdiction to adjudicate violators of City Order No. 21. In a prior oral conversation with Major Glenn, I advised against such procedure, for two reasons : (a) the visiting of jurisdiction of purely proclamation offenses on agencies other than those established by the 'roclamations, and (b) the resulting lack of control by way of review procedure over the alleged offenses. The order appears to have been issued by 5th Army AMG. I pass this on for whatever action, if any, you may care to take.

For the Regional Commissioner:

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

|                      |  |
|----------------------|--|
| LEGAL SUB-COMMISSION |  |
| CO                   |  |
| SOLO                 |  |
| Chief Counsel        |  |
| CJO                  |  |
| Italian Section      |  |
| CL RKS               |  |
| 8 APR 1945           |  |

25



4011/2  
file

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

Admin Section  
27  
Leyden  
14 AUG 1944

13 August 1944.

Ref/275/89/CA

SUBJECT: Disturbances - ITALIAN Civilians.

TO : R.C.'s Regions I - IX, & "Z"  
P.Q. Foggia Province.

1. HQ AAI have remarked that there have recently been several disturbances in which ITALIAN civilians have assaulted Allied Military personnel, apparently on the grounds that they were accompanied by ITALIAN women. The Commander in Chief takes a most serious view of such cases.

2. It is not desired to attract undue attention to these incidents by giving wide publicity to them or by the issue of public warnings but such disturbances should be dealt with by strong and immediate action.

3. In Military Government territory ITALIAN civil offenders must be brought to trial without delay before an Allied Military court. In ITALIAN Government territory the most careful consideration should be given to the bringing of such cases for trial before a military court in accordance with the present established principles. Applications for such trials will first be submitted to this HQ in the usual way for approval.

4. This matter should be brought to the attention of your Regional Legal Officer.

## LEGAL SUB-COMMISSION

X LO

DCLO

Chief Counsel

CIO

Italian Copy to:

CL RK

AAI (Ref AAI/5063/17/A(PS) of 7 Aug and conversation  
Brig. Paton - Brig. Luah).  
Admin Section.

24  
Norman E. Fiske  
NORMAN E. FISKE  
Colonel,  
Deputy Executive  
Commissioner.

563



U. S. RESTRICTED

OUTGOING

25

LEGAL/ANT  
/DSI

RESTRICTED

ROUTINE

ACC REAR

IBS



2 MAY

2/02

2699

MINISTER OF JUSTICE HAS NOW PUBLISHED IN GAZZETTA UFFICIALE NUMBER TWO TWO DATED TWO SIX APRIL AMENDING DECREE TO ADJUST ARTICLE THREE OF ROYAL DECREE LAW NUMBER THREE ONE PD TO IBS FOR ACC REGION ONE FOR KLO FROM ACC REAR FROM LEGAL BIGHT MACFARLANE PD TEXT OF NEW DECREE DATED ONE THREE APRIL ONE NINE FOUR FOUR NUMBER ONE ONE TWO IS AS FOLLOWS CIN QUOTE ARTICOLO UNICO PD L APOSTROPHE ART THREE DEL R POINT DECRETO DASH LEGGE ELEVEN FEBBRA ONE NINE FOUR FOUR CMA N POINT THREE ONE CMA E ~~APOSTROPHE~~ SOSTITUITO DAL SEGUENTE CIN QUOTE CHIUSO UN TITRO IL TERRITORIO, RESTITUITO ALL APOSTROPHE AMMINISTRAZIONE ITALIANA COMPIA ATTI OSTILI O COMMETTA DELITTI CONTRO IL PATRIMONIO IN DANNO DELLE FORZE MILITARI ALLEATE O DEI MEMBRI DI ESSE O DEI FUNZIONARI CMA RAPPRESENTANTI OD AGENTI DELLE NAZIONI UNITE CMA O COMPIA MANIFESTAZIONI OFFENSIVE CONTRO LE FORZE ALLEATE O ATTI CHE COME QUE OSTACOLINO LO SFORZO BELLICO O AIUTINO IL NEMICO CMA E ~~APPOSTROPHE~~ GIUDICATO DALL APOSTROPHE AUTOMITA ~~APPOSTROPHE~~ GIUDIZIARIA ITALIANA CMA A NOME DELLE LEGGI PENALI ITALIANE PD E ~~APPOSTROPHE~~ PERC ~~APPOSTROPHE~~ RICONOSCIUTA LA COMPETENZA DEI TRIBUNALI MILITARI ALLEATI NEI CASI IN CUI ESSI RITENGANO DI DOVERE AVOCARE A SE APOSTROPHE LA COGNIZIONE DI TALI GIUDIZI PD IN DETTA IPOTESI I TRIBUNALI MILITARI ALLEATI SEGUONO LA PROPRIA PROCEDURA CMA MA APPLICANO LE LEGGI PENALI ITALIANE PD NELLA IPOTESI DI CUI AL PRIMO COMMA CMA QUALSIASI MEMERO DELLE FORZE ALLEATE POTRA ~~APPOSTROPHE~~ PROCEDERE ALL APOSTROPHE ARRESTO DI OGNI PERSONA CHE SI ABBA RAGIONEVOLE MOTIVO DI RITENERE IMPIEGATA NEI FATTI IVI PREVISTI CMA TRanne CHE SI TRATTI DI UN UFFICIALE O DI UN ALTO FUNZIONARIO ITALIANO PD IN TAL CASO CMA SALVO RAGIONI DI SPECIALE URGENZA CMA IL GOVERNO ITALIANO O LA COMPETENTE SUPERIORE

U. S. RE-1-RCTED



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RESTRICTED

ROUTINE

ADD REAR

IRS

(CONTINUED)

PAGE # 2

AUTORITA ~~ROMANA~~ ROMANA VIENE RICHIEDUTA DI PROVVEDERE A QUANTO CIA NECESSARIO  
 AD ~~IL~~ IL PRESENTE DECRETO CMA CHE FINIRA IN VIGORE IL GIORNO DELLA SUA PUBBLICAZIONE  
 NELLA GAZZETTA UFFICIALE DEL REGNO DASH DASH SERIE SPECIALE DASH DASH SARA ~~PRESENTATA~~  
 PRESENTATO ALLA ASSEMBLEA LEGISLATIVA PER LA CONVERSIONE IN LEGGE PD IL CAPO DEL GOVERNO  
 CMA PROVENIENTE CMA E ~~APPROVATO~~ AUTORIZZATO ALLE PRESENTAZIONE DEL RELATIVO DISegno  
 DI LEGGE PD ORDINIAMO CMA A CHIUNQUE SPETTI CMA DI OSSERVARE IL PRESENTE DECRETO E DI  
 FARLO OSSERVARE COME LEGGE DELLO STATO PD DATO A SALERNO IL ONE THREE APRILE ONE NINE  
 FOUR FOUR PD VITTORIO EMANUELE BADOGLIO REALE CAVALI JUNG ORLANDO DE COURTEN SANDALLI PD  
 VISTO IL GUARDASIGILLI CAV CAVATI INQUOTE

AUTHENTICATED:

*E. J. Chiozza*  
 E. J. CHIOZZA  
 CWO USA  
 Asst Adj

. 22

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✓  
4011/2/L  
REAR HEADQUARTERS  
ALLIED CONTROL COMMISSION  
LEGAL SUB-COMMISSION  
APO 394

13 April 1944

ACC/4011/L

SUBJECT : Jurisdiction of Allied Military Tribunals .  
TO : H.M. Minister of Pardon and Justice .

This letter is to confirm that according to my understanding your excellency expressed at this morning's conference the intention of modifying the wording of the Decree now to be promulgated in such a manner as to make certain and unequivocal the nature and extent of the jurisdiction retained by Allied Military Courts under Article 3 of the Decree of 11 Feb. 1944.

It would be much appreciated if I could have sight, as soon as possible, of the proposed alteration in wording so that necessary assurances may be given to the Allied Authorities that this difficulty has been definitely overcome .

G. R. UPJOHN,  
Colonel,  
Chief Legal Officer.

21



~~8/1/44~~ 40 11/2 (21)  
The following is substituted for the text of Art. 3 of R.D.L. 11 Feb 1944 No. 51.

"Whoever within the territories returned to Italian Administration is guilty of hostile acts or commits offences against property to the prejudice of the Allied Military Forces or of any members thereof or of functionaries, representatives or agents of the United Nations or is guilty of seditious demonstrations against the Allied Forces or of any acts that in any way whatsoever impede the armed forces or assist the enemy, will be tried by the Italian Judicial Authority according to the provisions of the Italian penal law.

However the jurisdiction of the Allied Military Tribunals is acknowledged in all cases which the Allied Authorities will decide to retain to be heard by such courts. In such cases the Allied Military Tribunals follow their own procedure but apply the Italian penal law.

Jurisdiction is always within that of Allied Military Tribunals if the offence is committed by a member of the Armed Forces of the United Nations or by any person attached thereto.

In such cases as set out in paragraph I any member of the Allied Armed Forces may proceed to arrest any person against whom there exist reasonable grounds suspicion of being implicated in such action, except when an officer or high Italian official is concerned. In such a case, except in matters of extreme urgency, the Italian Government or the competent superior local authority shall be requested to take all necessary steps.

15th April 1944.

20



40112  
R. DECRETO-LEGGE 13 APRILE 1944 N.

MODIFICHE ALL'ART. 3 DEL R. DECRETO-LEGGE 11 FEBBRAIO 1944, N. 31. *modification of art 3 R.D. no 31.*

VITTORIO EMANUELE III

per grazia di Dio e per volontà della Nazione

RE D'ITALIA

Visto il R. decreto-legge 11 febbraio 1944, n. 30;

Visto il R. Decreto-legge 11 febbraio 1944, n. 31;

Visto l'Art. 18 della legge 19 gennaio 1939, n. 129;

Visto il R. decreto-legge 30 ottobre 1943, n. 2/B;

Ritenuto che si versa in stato di necessità per causa di guerra;

Sentito il Consiglio dei Ministri;

Su proposta del Capo del Governo, Primo Ministro Segretario di Stato, d'intesa coi Ministri dell'Interno, della Grazia e Giustizia, delle Finanze, della Guerra, della Marina e dell'Aeronautica;

ABBIAMO DECRETATO E DECRETIAMO

Articolo unico

L'art. 3 del R. decreto-legge 11 febbraio 1944, n. 31, è sostituito dal seguente:

"Chiunque entro il territorio restituito all'Amministrazione Italiana compia atti ostili o commetta delitti contro il patrimonio in danno delle forze militari alleate o dei membri di esse o dei funzionari, rappresentanti od agenti delle Nazioni Unite, o compia manifestazioni sediziose contro le Regenze Alleate o atti che comunque ostacolino lo sforzo bellico o aiutino il nemico, è giudicato dall'Autorità giudiziaria italiana, a norma delle leggi penali italiane.

"E' però riconosciuta la competenza dei Tribunali Militari Alleati nei casi in cui essi ritengano di dovere avocare a sé la cognizione di tali giudizi. In detta ipotesi i Tribunali Militari Alleati seguono la propria procedura, ma applicano le leggi penali italiane.

"Nella ipotesi di cui al primo comma, qualsiasi membro del-



Visto il R. decreto-legge 11 febbraio 1944, n.30;  
 Visto il R. Decreto -legge 11 febbraio 1944, n.31;  
 Visto l'Art. 18 della legge 19 gennaio 1939, n.129;  
 Visto il R. decreto-legge 30 ottobre 1943, n.2/B;

ritenuto che si versa in stato di necessità per causa di guerra;

Sentito il Consiglio dei Ministri;

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"Nella ipotesi di cui al primo comma, qualsiasi membro delle Forze Armate Alleate potrà procedere all'arresto di ogni persona che si abbia ragionevole motivo di ritenere implicata nei fatti ivi previsti, tranne che si tratti di un ufficiale o di un alto funzionario italiano.



(19)  
 " In tal caso, salvo i ragioni di specie' urgenza, il Go-  
 "verno Italiano o la competente superiore Autorità locale viene  
 "richiesta di provvedere a quanto sia necessario."

Il presente decreto, che entra in vigore il giorno della  
 sua pubblicazione nella Gazzetta Ufficiale del Regno - serie  
 speciale-, sarà presentato alle Assemblies legislative per la  
 conversione in legge.

Il Capo del Governo, proponente, è autorizzato alla pre-  
 sentazione del relativo disegno di legge.

Ordiniamo, a chiunque spetti, di osservare il presente  
 decreto e di farlo osservare come legge dello Stato.

Dato a Salerno, 13 aprile 1944

VITTORIO EMANUELE

Badoglio-- Reale - Casati- Jung-  
 Orlando- de Courten - Sandalli-

v. il Guardasigilli

Casati

P. C. C.

IL CAPO DEL CABINETTO.

signed (?)

1 18



4011/2.

File. (18)

Subject: Whether the Allied Control Commission  
is legally entitled to require the Italian  
Criminal Courts to try Italian subjects  
for offences against Allied Proclamations

To: Col. Wisner

1. The answer in my view is as follows:
  - (a) Italian Courts can not legally be compelled to function on any basis
  - (b) As regards any Courts that are willing to do so, there is nothing illegal in requiring them to administer penal clauses of Allied Proclamations
  - (c) Exceptions to (b) are any such clauses which can not fairly be said to conduce to the restoration and preservation of public order and safety.

17

2. It is a principle of international law that Government officials can not be ~~required~~ compelled by force to carry on their functions during occupation, if they refuse to do so, except where military necessity for the carrying on of a certain function

(P.T.O.)



2.

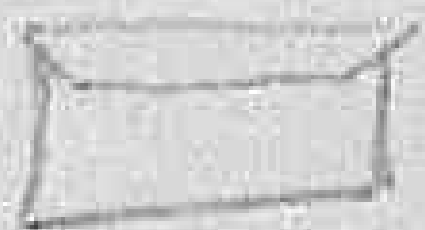
arises. I do not think it could be ~~said~~<sup>us Italy</sup> said that there is any reason of military necessity which would justify us in compelling unwilling Courts to administer Allied Proclamations. (see Oppenheim vol II p. 348).

3. Article 43 of the Hague Regulations <sup>requires</sup> ~~prohibits~~ an occupying power to respect, unless absolutely prevented, the laws in force in the occupied country. This injunction is, however, itself subject ~~the~~ to the overriding obligation, imposed by Article 43, to restore and ensure public order and safety. Oppenheim, I think rightly, reads this as meaning that so far as necessary ~~for the maintenance of public order and safety~~ for the maintenance of public order and safety, the occupying power may temporarily alter the laws, and especially the Criminal Law; and specifically contemplates such a situation when the administration of justice by local Courts is admitted by the occupying power (ibid p. 349).

4. Oppenheim applies the same interpretation



3.



(17)

where an alteration <sup>of laws</sup> is necessary, "for military purposes." No specific authority is cited in support of this view, which would give to an occupying power a greater freedom ~~that~~ than is contemplated by Article 43. The basic conception of the Hague Rules being the preservation of private individuals from unnecessary harm, I do not think that an alteration of laws would be justified on ~~the~~ purely <sup>not essentially involving any question</sup> grounds <sup>of public order or safety</sup> ~~of public order or safety~~ <sup>of military necessity</sup> ~~of military necessity~~. The application of this principle to the Allied Proclamations would be a difficult matter; but in practice it will, I think, be found that practical considerations will decide cases which would in law be doubtful.

The following war crimes under Proclamation 2 would, I suggest, be excepted in any <sup>16</sup> event from the jurisdiction of the Italian Courts, so that no question of alteration of Italian criminal law would arise:

Article I.

- (1) Spying
- (2) Communicating with the enemy
- (3) Sending information regarding Allied forces

P.T.O



- (4) Bearing Arms against Allied forces
- (7) Misleading Allied Forces
- (8) Assisting prisoners of war to escape
- (9) Assisting enemy forces to evade capture
- (10) Entering forbidden areas
- (12) Destroying property with intent to interfere with military operations
- (16) Killing members of Allied forces
- (17) Assaulting members of Allied force with intent to kill or injure
- (19) Raping women serving with Allied forces
- (23) Endangering safety of Allied forces

### Article II

- (26) Giving false evidence before Allied tribunals
- (34) Bribing or intimidating members of Allied forces with intent to induce them not to perform their duty
- (45) Prejudicing security of Allied forces.

### Article III

Section 1. Conspiring or assisting in any of the above crimes

Section 2. Attempting to commit any of the above crimes.

With the above exceptions, I think the Italian Courts can properly be required to try offences against our Proclamation 2.

Thore.

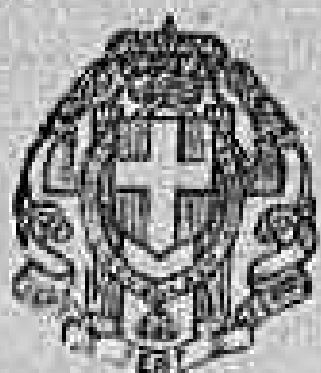
21/3/44.



file  
Jurisdiction over offences against  
Allied Interests  
MINISTERO DI

GRAZIA E GIUSTIZIA

Mod. 25 bis



(1)

## TELEGRAMMA DI STATO

Veggansi le importanti avvertenze a tergo

Bollo  
dell'ufficio di  
accettazione

|                          |                     |             |                             |        |                                                        |     |                                                                   |
|--------------------------|---------------------|-------------|-----------------------------|--------|--------------------------------------------------------|-----|-------------------------------------------------------------------|
| INDICAZIONI<br>d'urgenza | UFFICIO TELEGRAFICO |             | Spedite 19 ore par circuito |        |                                                        |     | CIRCUITO<br>sul quale si deve<br>fare l'inoltro<br>del telegramma |
|                          | di                  |             | all'ufficio di Trasmittente |        |                                                        |     |                                                                   |
|                          | DESTINAZIONE        | PROVENIENZA | NUM                         | Parole | Data della presentazione<br>Giorno e Mese Ore e minuti | ORE |                                                                   |

N. B. - Scrivere una sola parola per casella nel a largo del modello, il telegramma deve essere scritto con chiarezza per modo che la lettura ne sia facile.

|                                                                                                       |                                                         |       |         |    |  |
|-------------------------------------------------------------------------------------------------------|---------------------------------------------------------|-------|---------|----|--|
| Destinatario                                                                                          | PROCURATORE GENERALE                                    | CORTE | APPELLO |    |  |
| Destinazione                                                                                          | PALESTRA                                                |       |         |    |  |
| Testo                                                                                                 | Essendo imminente provvedimento legislativo modificante |       |         |    |  |
| Spazio riservato alla<br>dichiarazione di STATO<br>COPRA DI STATO e bollo<br>del funzionario mittente | decreto legge undici febbraio 1944                      |       |         |    |  |
| 25143                                                                                                 | numero 31                                               | nei   | sense   | di |  |
| Di stato                                                                                              | attribuire ai tribunali italiani competenza             |       |         |    |  |
| Salerno                                                                                               | giudizi penali ivi indicati presunti                    |       |         |    |  |
| 20.3./44                                                                                              | prendere accordi con ufficiale legale                   |       |         |    |  |
| I                                                                                                     | allato per agire in conformita'                         |       |         |    |  |
| Ministro                                                                                              | istruzioni da questo ricevute Ministro                  |       |         |    |  |
| Casti                                                                                                 |                                                         |       |         |    |  |

## SCONTRINO

DI  
RICEVUTA  
da consegnare  
al  
MITTENTE  
del  
TELEGRAMMA  
N.  
di po.  
per  
ora  
Indicazioni eventuali:

Ufficio o funzionario autorizzato a spedire telegrammi di Stato. - Si raccomanda di non omettere questa indicazione.  
N. B. - La firma dovrà essere sempre seguita dall'indicazione del corpo od ufficio cui il firmatario appartiene



## AVVERTENZE

Estratto dalle Norme speciali sulla corrispondenza telegrafica nell'interno del Regno

(Approvato con Regio Decreto numero 352 del 19 Maggio 1904)

Art. 6 - In assenza del funzionario titolare per i telegrammi di Stato in franchigia potranno essere spediti dal sostituto, il quale dovrà firmare con le parole: Per il . . . qualifica del titolare.

Art. 7 - Nell'interno del Regno qualunque funzionario che gode di franchigia limitata, se riceve un telegramma di Stato in franchigia da una autorità con la quale normalmente non può corrispondere per telegrafo in esenzione di tassa è autorizzato a rispondere con un telegramma di Stato in franchigia, purchè presenti il telegramma domanda che gli è stato recapitato e da questi risulta manifesta la necessità di una risposta telegrafica.

Art. 10 - I telegrammi ammessi in franchigia da funzionari telegrafici art. 4 e 5 sono soggetti a sindacato, e debbono essere scritti, meno per quelli ammessi nella Colonia Eritrea, su moduli speciali; di forma, colore, dimensioni determinati dal ministero delle Poste e dei Telegrafi, e che ciascun Ministero si provvede direttamente dell'economato generale od altrimenti (1).

Questi telegrammi debbono soddisfare alle condizioni seguenti:

a) trattare esclusivamente gli affari di *servizio* relativi alle attribuzioni *ufficiali* del funzionario mittente non considerandosi come di Stato in franchigia i telegrammi di auguri, di felicitazioni, di condoglianze e simili (2).

b) essere compilati in termini concisi e senza prolissità non necessaria.

c) avere carattere d'importanza e d'urgenza tale che evidentemente ed assolutamente ne sia necessario l'invio per telegrafo;

d) portare la firma chiaramente leggibile dell'autorità mittente, autenticata col bollo d'ufficio dall'autorità stessa salvo alcuni casi speciali determinati dal Ministero delle Poste e dei Telegrafi;

e) portare in calce, nello spazio a ciò riservato, l'indicazione di *Stato* scritta e firmata dal mittente;

Quando il telegramma è compilato in cifre segrete la dichiarazione di cui al comma e) è surrogato dalla dichiarazione *Cifra di Stato*.

Questa dichiarazione potrà essere opposta con bollo, ma dovrà essere firmata dal mittente.

15

(1) È vietato agli uffici telegrafici di accettare telegrammi di Stato in franchigia per l'interno della città, eccettuando il caso che contengono comunicazioni di misure sanitarie o che siano diretti a funzionari presso i quali è installato un ufficio telegrafico collocato con la rete governativa.

È vietato ugualmente agli uffici di accettare telegrammi emessi da funzionari non autorizzati a spedire telegrammi di Stato in franchigia diretta a persone con le quali il mittente non può corrispondere in esenzione di tassa salvo che si tratti di risposte telegrafiche emesse nelle condizioni previste dall'art. 7.

Le circolari telegrafiche di Stato devono essere presentate per l'accettazione all'ufficio telegrafico centrale della località in numero di copia uguale a quello del circuito sul quale deve essere fatto l'invio. L'ufficio telegrafico accettante indica il numero delle copie necessarie per ogni specie di circolare.

(2) Non si considerano esenti di Stato in franchigia i telegrammi che pur avendo relazione col servizio, sono emessi nell'interesse de' mittente o di terze persone come domande di congedi, sussidi, di autorizzazione per trasporti feretri e di materiale pericoloso, domande di documenti, i certificati, gli atti civili simili, la meno che per questi ultimi la domanda sia fatta nell'interesse della giustizia punitiva.

I telegrammi dichiarati dal Ministero delle Poste dei Telegrafi emessi in opposizione alle predette norme sono sottoposti a tassa come telegrammi privati. L'importo della tassa deve essere pagato dai mittenti agli uffici ai quali si presentarono i telegrammi.

U. S. RESTRICTED  
 Equals British RESTRICTED OUTGOING

27 MAR 64  
 3588  
 LEGAL/GOCH  
 /MSF  
 7/27  
 2539  
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RESTRICTED  
 ROUTINE  
 FATIMA REAR  
 TBS

4011/2

MINISTER JUSTICE IS CABLEING DIRECTIVE ALL FIRST RESIDENTS COURT APPEAL  
 TO INSTRUCT ALL COURTS IN THEIR DISTRICT TO TRY ALLIED PROPERTY CASES AS  
 PAPER TO LIE FOR AGG REGION ONE FOR AGG FROM FATIMA REAR FROM LEGAL SECRET  
 MCELANE PARN MINISTERIAL DECREE TO THAT EFFECT AMENDING ARTICLE THREE  
 OF ORIGINAL DECREE WILL REACH THEM IN COURSE OF FEW DAYS RE YOUR REG ONE  
 FOUR SIX OF TWO FIVE MARCH REFERS

AUTHENTICATED:

12 13 14  
 ROGER B. DEER  
 1st Lt A G D  
 Adjutant

14,

DISTRIBUTION:

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- 1 - DGO
- 1 - Legal

U. S. RESTRICTED  
 Equals British RESTRICTED



RESTRICTED

26 MAR 1944

231-3

5/3675776 (12)  
Admin Sec.

N55/25

Legal  
Will you please  
difficultly  
all the way  
1/3FROM: BEARS 251632A  
TO : PATIMA FOR UPJHN QOX

(PAREN BEARS FROM HANCOCK FOR WILMER TO PATIMA FOR UPJHN CITH  
RE0146 PAREN) 9-3770 RESTRICTED ITALIAN COURTS IN PALERMO DISTRICT  
UNLIKE THOSE IN CATANIA AND MESSINA WILL NOT TRY ALLIED PROPERTY  
CASES BECAUSE OF ERROR IN ORIGINAL DECREE RECOMMEND MINISTER SEND  
EXPLANATORY DIRECTIVE TO FIRST PRESIDENT TO PROCEED OR COPY OF  
AMENDING DECREE IF PUBLISHED AS CONFESSION OF SUCH CASES IS SERIOUS.  
POSSIBLY TIME SAVED IF DOCUMENTS SENT THROUGH OUR CHANNELS. IN  
LISTING LEGAL OFFICERS FOR REGION 4 DO NOT INCLUDE MOORE AND  
CIBISSENTI AS THEY ARE NOT ACTING AS LEGAL OFFICERS.

SENT NR51 251735

RECD NR51 251735

→ Major Kayser

ACC-DIST

ACTION - Legal SC - (2)

INFO - Sup CC

- Admin Sec.

- CAP 13

- FILE

- FRONT

Sir,  
The above copy is a spare  
sent to you only because of VP Admin  
request. ACTION copy of cable is in file

Major Hammonds

See the Minister as soon as possible

RESTRICTED

g/km



4011  
✓

U 2107

Legal Sub. Comm.  
(Rear HQ)

(11)

TO CIG HQ ACC.

FROM HQ REGION 5 ANG.

SUBJECT Trials of offences against Allied forces and property.

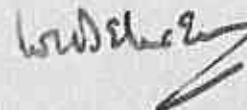
REF R5/511/2.

(44)

22 March 1944.

Ref your letter ACC/4011/L of 12 March 1944, may this be informed, please, whether it is the policy, in areas subject to Allied Military Government, for persons charged with offences against Allied personnel and property to be handed over to the Italian Courts for trial.

For Regional Commissioner

W. E. Behrens,  
Lt-Col.  
R.O.

12

1529

U S. RESTRICTED  
Equals British RESTRICTED

18 MAR 1944

3016

(10)

5/18

2490

MAR 18 1905A

RESTRICTED

ROUTINE

FATIMA HEAR

IBB-

MINISTER OF JUSTICE HAS TAKEN NECESSARY STEPS TO ADJUST ARTICLE THREE  
OF ROYAL DECREE LAW NUMBER THREE ONE IN ACCORDANCE PARTI TO IBB FOR AG  
REGION ONE FOR LEGAL FROM FATIMA HEAR FROM CLO SIGNED MACFARLANE PARTI  
WITH VIEWS EXPRESSED IN YOUR LETTER AND SIGNAL ONE ONE MARCH ONE NINE  
FOUR FOUR TO ALL OF WHICH IS BEING NOTIFIED.

AUTHENTICATED:

E. J. CHIOCCA  
C/O USA  
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- ✓ 1 - Legal

11

U. S. RESTRICTED  
Equals British RESTRICTED



4011  
ALLIED CONTROL COMMISSION  
SICILY REGION HQ.  
APO 394

File: RLE 013.01/HD

11 March 1944

SUBJECT: Trial of cases in unoccupied territory.

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

17 File 4012

1. On receipt of your letter ACC/4083/L dated 22nd February regarding mail theft cases, a letter was addressed to the First President of the Court of Appeal requesting his co-operation in dealing with such cases. A copy of his reply dated 10 March 1944 is enclosed.

2. It is clear that the Italian legal authorities here construe Art. 3 of R.D.L. No. 31 dated 11 February as withdrawing from the competence of their Courts all cases in which Allied Military personnel or property are involved and not only those of a serious nature, which are to be dealt with as laid down in Directive to the Regional Commissioner Ref. 283/42/CA dated 5 March 1944. As this would involve a complete standstill in cases of this type, a signal has today been despatched to you as follows:

attached  
"Italian legal authorities interpret Article III of Royal Decree Law No. 31 as withdrawing all repeat all offenses against Allied Military personnel and property from competence of Italian Courts. Request urgent issue of ministerial instructions directing trial of such cases in Italian Courts except when reserved under para. 2 Directive Ref. 283/42/CA dated 5 March."

3. It is requested that the Minister of Justice be asked to issue necessary instructions or a fresh Decree as soon as possible.

10

For Lt. Col. HANCOCK:

*H. M. Dickie 8/1*  
H. M. DICKIE,  
Squadron Leader R.A.F.,  
Regional Legal Officer.

jd

1 Incl.



1974  
PROCURA GENERALE PRESSO LA CORTE DI APPELLO DI PALERMO

N. 1 di Sezione N.1027 di Protocollo N. di posizione

Risposta a nota del 6 marzo 1944 File RLE 013.03/4D

Oggetto: Furti di corrispondenza in danno delle Forze Alleate.

Palermo 11,10 marzo 1944

ALLA COMMISSIONE ALLEATA DI CONTROLLO  
QUARTIERE GENERALE REGIONALE DI SICILIA

Rispondiamo alla nota di codesta Commissione di Controllo Alleata del 6 marzo 1944 riguardante furti di corrispondenza consumati da civili Italiani in danno delle Forze Alleate.

Facciamo presente:

1) Con R.D. dell'11 febbraio 1944 N.31 emesso dal Governo Italiano in relazione al ritorno all'Amministrazione Italiana di territori già sottoposti al Governo Militare Alleato e precisamente all'art.3 è disposto quanto segue:

" Chiunque entro il territorio Italiano liberato compia atti  
" ostili o delitti contro il patrimonio in danno delle forze  
" militari Alleate e di membri di esse o di funzionari rappre-  
" sentanti od agenti delle Nazioni Unite.....sarà passibi-  
" le delle pene previste dalle leggi Italiane e sarà giudica-  
" to dai Tribunali Militari Alleati secondo la propria proce-  
" dura".

2°) Il furto di corrispondenza in danno delle Forze Alleate o dei membri di essi è quindi un reato previsto del suddetto art.3 del menzionato R.D. e rimane di competenza dei Tribunali Militari Alleati.

3°) Nel mentre disponiamo che notizia del R.D. sia data agli uffici dipendenti, facciamo noto che nessuna delle disposizioni richieste da codesta Commissione Alleata di Controllo può essere data, trattandosi di delitti che esulano dalla competenza dei Tribunali ordinari Italiani.

p IL PROCURATORE GENERALE DEL RE  
f.to Miceli

IL PRIMO PRESIDENTE  
f.to Gentile

4011  
Legal  
8  
**OUTGOING MESSAGE**

DATE : 11 March 1944 Reference No.  
CLASSIFICATION :  
PRECEDENCE :  
ORIGINATED BY : HD  
FROM : Legal Division ACC Region I  
TO : C.L.O., ACC HQ., (Salerno)

Italian legal authorities interpret Article III of Royal Decree Law No. 31 as withdrawing all repeat all offenses against Allied Military personnel and property from competence of Italian Courts. Request urgent issue of ministerial instructions directing trial of such cases in Italian Courts except when reserved under para. 2 Directive Ref. 283/42/CA dated 5 March.

Time Signed 17.20.

Contents and Classification  
authenticated by:

Am. Orthe



4011/2

REAR HEADQUARTERS  
ALLIED CONTROL COMMISSION  
Legal Subcommittee  
APO 394.

17-  
/cm

ACC/4002/L

11 March 1944.

SUBJECT: Purport of Art. 3 of RDL No. 31 of 11 Feb. 1944.

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

I am advised that because of the wording of the first paragraph of Art. 3 of the above Decree Law, it might be contended that Italian Courts would have no jurisdiction to try cases of the type mentioned therein. It is naturally our desire that Italian Courts generally should try such cases, with the right reserved, however, to Allied Military Courts to do so whenever deemed necessary. In order to avoid this misconception, apparently caused by the use of the word "sara" in the eighth line of the first paragraph of Art. 3, it is requested that this Article be amended to accord with the views expressed above, namely giving Allied Military Courts the right to try such cases without making it obligatory on them to do so.

8

RICHARD H. WILMER  
Lt. Col. CAC  
Deputy Chief Legal Officer.

7



U. S. RESTRICTED  
 Equals British RESTRICTED

-OUTGOING

Legal  
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ROUTINE

FATIMA REAR

DISTWO

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 40013

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MAR 63

MAR

ARTICLE THREE MAY ADMITTEDLY LEAD TO CONFUSION PD (TO DISTWO FOR AME REGION  
 TWO FROM FATIMA REAR SIGNED MACFARLANE) PD ALL SUCH CASES WILL BE TRIED  
 BY ITALIAN COURTS EXCEPT THOSE OF SPECIAL INTEREST OR IMPORTANCE WHICH  
 WILL BE TRIED BY ALLIED COURTS PD ITALIAN DECREE CLARIFYING THIS POINT  
 TO BE PUBLISHED SHORTLY PD YOUR SIX EIGHT SLANT SIX SIX OF ONE MARCH  
 REFERS

AUTHENTICATED:

REB

E. J. OHIOCCA  
 CWO, USA  
 Asst Adj

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6

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ALLIED CONTROL COMMISSION INCOMIN 2 MAR 10/11 MESSAGE /msr

SVC/RELAY NO.

M/C NO :

CLASS: NOT GIVEN

REF NO: 68/66

PREC : NOT GIVEN

FILED : MAR 011715A

FROM : RLO REGION TWO

REC'D : MAR 021010A

TO : SUBCOMMISSION A C C SALERNO

Via Italian  
Telecoms

Presumed that policy explained to ORLO regarding trial of cases in Apulia is unchanged. But may attention be (be?) directed to King's decree of 11- 2 - 44, article 3 stating crimes affecting Allied interests will be tried in Allied Courts. Submit Matera Requires clarification since language of Royal Decree suggests Italian courts will not try such cases.

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REAR HEADQUARTERS  
ALLIED CONTROL COMMISSION  
LEGAL SUB-COMMISSION  
APO 394.

4

25th February, 1944.

REFERENCE : ACC/4001/3/1.  
SUBJECT : Jurisdiction over Apulia.  
TO : R.L.O. (thru Regional Commissioner) Region II.

Reference your 2201/58/1 dated 19 Feb 44. I have in fact had the pleasure of meeting Capt. Backhouse and discussed the matters raised by you with him very fully.

For your file however I confirm that :-

- (1) At present there will be no military zones which will be imposed only by a decision taken at a very high level in the case of a real breakdown in local administration.
- (2) The right to try civilians in A. M. Courts in unoccupied territory e.g. Apulia will NOT be retrospective in respect of crimes committed before 14 Feb. Only in the most important cases will use be made of these Courts.
- (3) Lt. Col. Willis will reach you on Monday. Even if some of the cases are tried by civilian Courts his investigation may be very helpful.
- (4) Your appointment of Major Franklin to Court of Appeal at Bari is noted and the Government is being informed. Please let me have a note of your appointments at Catanzaro and Potenza as soon as possible.
- (5) The state of affairs in Taranto is known to this Headquarters but I am obliged to you for your detailed figures. A firm stand has been taken with the Government over this matter and I shall be obliged if you will report to me if the situation does not rapidly improve.

GERALD R. URJOHN,  
Colonel,  
Chief Legal Officer.

GRU/vov.



HEADQUARTERS  
ALLIED CONTROL COMMISSION  
REGION II

19 Feb 44

3

Ref: 2201/53/1

Subject: Jurisdiction over Apulia

To : CMC, Legal Sub-Commission  
ACC, Salerno

1. Information given by the Provincial Commissioner Taranto would make it appear that, from the Legal and Police aspect, Apulia represents an Augean stable in need of drastic cleansing.

It is stated that Italians guilty of eg stabbing British soldiers, are walking the streets of Taranto with complete impunity so far, and that the local courts have in four months tried 4 cases only out of 158 pending.

2. A Legal Officer (Major Franklin) will in a few days make a preliminary survey of the Italian Courts in Apulia, and will estimate the number and nature of past crimes affecting Allied interests, which have so far escaped prosecution, and whether evidence of same is still to hand.

It is believed that there is a Court of Appeal at Bari, in which case, approval is requested to the appointment of Major Franklin as its Liaison Officer.

3. But while subpara 2 (d) of APO 394 of 12-2-44 is clear in respect of crimes committed after 11-2-44, without knowledge of the precise terms of the agreement with the Italian Government, it is not certain as to what jurisdiction exists for Allied Military Courts in respect of crimes against Allied interests committed in Apulia before that date.\*

It is also not known as to whether this province contains officially recognized military zones.

4. Should retrospective jurisdiction exist as to Apulia, it may later be requested that Lt. Col. Willis of the Special Prosecutions Branch, now about to investigate the mail bag robberies, should remain in Apulia, to look into the matter of past crimes affecting Allied interests, in conjunction with Major Franklin.

But a further report will later be submitted. In the meantime, may the doubt expressed in para 3 above, be clarified?

D.E.S. COUSINS, Lt. Col.  
RLO  
Region II

\*Since no Proclamations will have been posted in Apulia, it is hoped that the Armistice terms reserved the right of trying cases affecting Allied interests, under Italian law but by Military Courts





VICTOR EMANUEL III

by the Grace of God and by the will of the Nation  
King of Italy.

In view of Art 18 of the law of 19 Jan 1939 no. 129;  
In view of the Royal Decree Law of 30 Oct 1943 no. 2/3;  
In view of the Royal Decree Law of 10 Nov 1943 no. 5/2;  
In view of the agreements concluded with the Allied Military Government in regard to the return to the Italian administration of certain territories formerly under the jurisdiction of the Allied Military Government.  
Whereas there is declared to be a state of necessity by reason of the War;  
Having heard the Council of Ministers;  
On the proposition of the Head of the Government, Prime Minister, Secretary of State, in accord with the Ministers of Marine and the Air Forces and with the Undersecretaries of State for the Interior, for Penion and Justice, for Finance and War.

We have decreed and decree

ART. 1

Allied Military Government, having been terminated, all proclamations and orders heretofore emanating from the Military Governor General of the Allied Forces or from his delegates lose their validity in the territories formerly under the jurisdiction of the Allied Military Government.

Understand

The efficacy of the Acts accomplished by the Allied Military Authority, referred to in the preceding paragraph, by virtue of the said proclamations and orders shall remain in force including the appointments and dismissals of public and private officials, which shall be recognized in every case as having full and valid legal effect as if they had been made by the Italian Government.

The juridical and economic status of those who have been placed in public offices by the Allied Military Government will be regulated in accordance with the rules of Italian laws.

ART. 2

The sentences pronounced by the Allied Military Tribunals remain in force and will in all respects be recognized as though pronounced by Italian Tribunals, unless revoked or modified by the Allied Control Commission or with the consent of the said Commission.

Proceedings in the Allied Military Courts for crimes heretofore committed, contemplated by the Proclamations and Orders herein above referred to in Article 2, will be continued and disposed of by said tribunals in accord with the provisions thereof.

(transl. note: obviously Art. 1 is meant)

ART. 3

Whoever within the liberated Italian territory commits a hostile act or crime against property to the prejudice of the Allied Military Forces or of any member thereof or of any functionalary, representative or agent of United Nations, or who ever takes part in seditious manifestations against the Allied Forces or commits any act which in whatever way may hamper the war effort or help the enemy, shall be punishable under Italian penal law and shall be tried in Allied Military Courts according to their own procedure.

In the case contemplated by the preceding paragraph 1 any member of the Allied Armed Forces can effect the arrest of any person who may be reasonably believed to be implicated in acts herein above contemplated, except where an Italian official or high government official is concerned, in which case the Italian Government or appropriate superior local authority will be requested to cooperate in the



in the premises to the extent necessary.

ART. 4

Wherever Military Zones are established in territories restored to the Italian Military Administration, by the Allied Armed Forces, the latter will retain all police powers within said zones, including the power to issue and enforce rules and regulations.

ART. 5

The present decree which will be effective beginning 0000 hours of 11 Feb 1944 becomes valid on the day of its publication in the Gazzetta Ufficiale of the Kingdom, Special Series.

It will be presented to the Legislative Assembly to be embodied into a law.

The head of the Government is authorized to present the draft of the law.

We order to whoever is concerned to obey this decree and to enforce it as law of the state.

Given at Salerno, 11 Feb. 1944

VITTORIO EMANUELE

RS/gmf

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Given at Salerno, 11 Feb. 1944

VITTORIO EMANUELE

EE/DE



