Declassified E.O. 12356 Section 3.3/NND No. 785016

ACC

10000/142/148

CORRESPONDENCE CONC
AGAINST ALLIED IN
JAN. 1944 – JAN. 1947

Declassified E.O. 12356 Section 3.3/NND No. 785016

10000/142/148

CORRESPONDENCE CONCERNING HANDLING OF OFFENSES AGAINST ALLIED INTERESTS
JAN. 1944 - JAN. 1947

Minute Sheet No 1.

(23)

17 Mar. LEGAL See 22 #B. V.P. requests your comments before seeking a reply,

(24)

R. R. Sturgess
C.S.O. 2nd Sec

7 Apr. V.P. Admy Sec. The matter involved is purely technical on which there has been direct communication over an extended period of time

Richard H. Widmer
Lt Col CAC AFHQ.

(25)

Legal.

V.P. had seen. In view of the letter which has resulted and of the discussion with Brigadier on 10 Apr. it would not appear that any written answer ~~would~~ is considered necessary

Admin
15 Apr.

H. H. Wells Lieut
for C.S.O.

(26)

~~VP CAS.~~

Reply to HA for signature, if agreed, please.

26 Feb. 42

Welsh
Lt Col
D.C.A.

182

Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

4043/14
4011/3

920

12/14
Legal

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 934.01

28 January 1947

SUBJECT: Reports from Court of Rossano.

TO : Chief Commissioner,
Allied Commission,
APO 794.

The enclosed papers have been received from Rossano. If these are a continuation of returns required when the Southern Region was in operation and are no longer required, will you please arrange for no further returns to be made.

BY COMMAND OF GENERAL MORGAN:

A.J. HALPLEN
Colonel, G.S.C.
Assistant Chief of Staff, G-5.

Encls: Reports from Court of Rossano for months of October, November and December, 1946.

a 181

LEGAL SUB-COMMISSION
CIO-CLA
OCLO
CHIEF COUNSEL
ITALIAN SECTION
Recd 30 JAN 1947

for reply see folio 24

LACAB/4011/3/4

1990

Declassified E.O. 12356 Section 3.3/NND No. 785016

Mod.404 A

Roma, 23 gennaio 1947

Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI PENALI DELLE GRAZIE E DEL CASELLARIO

Uffizio II A.P.

Prot. N° 131.1492/3023

Risposta al f. del 7.1.947

Div. Sez. 6 AC 11/3/1

Al La COMMISSIONE ALLEATA
Ta Sottocommissione Penale
ROMA

OGGETTO Procedimento penale contro DOMBE' Willy.

e per conoscenza:
All'UFFICIO COLLEGAMENTO
SEDE

Si assicura codesta On.Commissione che, con telegramma 8.1.947, s'invitò la Procura Generale presso la Corte d'Appello di Napoli, a dare disposizioni per la definizione del procedimento penale di cui in oggetto.

La Procura Generale predetta ha già dato assicurazione telegrafica di aver provveduto a sollecitare in proposito la Pretura di Capri.

pel MINISTRO
(A.Spallenzani)

(Alle folio 1A) LRC AB/4011/3/6

Declassified E.O. 12356 Section 3.3/NND No. 785016

12 017

T R A N S L A T I O N

MINISTRY OF PARDON AND JUSTICE — Rome, 28 January 1947

Office II A P
Ref N° 131.1492/3023

TO: HQ Allied Commission
Legal Dvision
R O M E

Reply to your AC/40II/3/D of 7 Jan 47

SUBJECT : Pebal proceedings against DOMBRE' Willy.

and for information to

LIAISON OFFICE WITH AC
R O M E

Please rest assured that this Ministry has forwarded on 8 Jan 1947 a signal requesting the Procuratore Generale Court of Appeal Naples to urge the hearing of the penal proceedings against DOMBRE' Willy et al.

The above mentioned magistrate has confirmed by signal to have given appropriate instructions to the Pretore of Capri for a prompt hearing of the case.

for the Minister 17/1

Signed A. Spallanzani

Declassified E.O. 12356 Section 3.3/NND No. 785016

FILE 1797

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL DIVISION

AG/4011/ /L

AP/ns
13 January 1947.

SUBJECT : Thefts from U.S. Forces.

TO : AFHQ, G-5.

1. Reference is made to your AG/4011/ /L. of 31 December 1946.

2. Herewith enclosed copy of a signal forwarded by the Ministry of Pardon and Justice to the Procuratore Generale Court of Appeal, Naples in re above-mentioned case.

3. An English translation is also enclosed.

For the Chief Commissioner :

G.G. HASTAFORD,
Lt.Colonel.
Deputy Chief Legal Adviser.

1 1/8

Declassified E.O. 12356 Section 3.3/NND No. 785016

T R A N S L A T I O N

MINISTRY OF PARDON AND JUSTICE
General De artment of Penal Affairs.

TO the Procuratore Generale
Court of Appeal, NAPLES

Nº 131.1429/3023/46 Uff.1 Penal Affairs.

Reference this Ministry's letter Nº 1645/46 II Division of 24 Oct 1946 pleqse urge hearing penal proceedings against DOMBRE' Guglielmo, PULAGALLI Maria, GENNOZZINI Fedele and Perego Filippo charged with theft to the detriment of the Allied Forces which is pending before Procura Repubblica of Naples PD. Pleqse confirm.

sgd.: Minister GULLO

Declassified E.O. 12356 Section 3.3/NND No. 785016

MINISTERO DI GRAZIA E GIUSTIZIA
Direzione Generale Affari Penali

TELEGRAMMA DI STATO

PROCURATORE GENERALE CORTE APPELLO
NAPOLI

1 1/1429/3023/46 Uff I Affari Penali

Riferimento nota 24 ottobre nº 1645/46 Divisione IIª pregasi sollecitare definizione procedimento contro DOLORES' Guglielmo PULCARELLI Ilaria, GENNAZZINI Fedele et PERUGIO Filippo imputati furto et ricettazione in danno Forze Alleate, pendente presso Corte Repubblica costesta città stop attendo assicurazione.

Ministro GULLO

16

Declassified E.O. 12356 Section 3.3/NND No. 785016

Files

1192

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 934.22

31 December 1946

SUBJECT: Thefts from U.S. Forces.

TO : Chief Commissioner,
Allied Commission,
APO 794.

Reference is made to your AC/4011/3/L dated 10 December 46.

1. It is requested that you continue to press the Minister of Pardon and Justice for action in this case which has now been outstanding since August.

BY COMMAND OF GENERAL MORGAN:

for A. L. HAMBLEN
Colonel, G.S.C.
Assistant Chief of Staff, G-5.

1996

Declassified E.O. 12356 Section 3.3/NND No. 785016

Mod.2

Ministero di Grazia e Giustizia

Gabinetto di S.E. il Ministro

Roma, 8.1.1947 19

Protocollo N. 4361-2

OGGETTO Furto commesso a Capri da cittadini italiani in danno della Forze Armate Americane.

ALLA COMMISSIONE ALLEATA
Divisione legale
ROMA

Con riferimento alla precedente corrispondenza intercorsa in merito all'oggetto, si trasmette per conoscenza copia del telegramma inviato in data odierna da questo Ministero al Procuratore Generale della Corte di Appello di Napoli per sollecitare la definizione del procedimento in parola.

Si fa riserva di ulteriori notizie al riguardo.

1/4

L'UFFICIALE DI COLLEGAMENTO
(Dott. G. Bonelli)

LEGAL SUB-COMMISSION
SJD-CLA
DCLO
CHIEF COUNSEL
ITALIAN SECTION
Recd 10 JAN 1947

Mod. 1382 M. G.

MINISTERO DI GRAZIA E GIUSTIZIA

(1) DIREZIONE GENERALE AFFARI PENALI

1163

TELEGRAMMA DI STATO

(Veggansi le importanti avvertenze stampate a tergo)

INDICAZIONI D'URGENZA	UFFICIO TELEGRAFICO	Spedito il ... 19 ... ore ... pel Circ. N. ...	CIRCUITO sul quale si deve fare l'inoltro del telegramma
D.D.D.	di ...	all'Ufficio di ... Trasmittente ...	
	DESTINAZIONE / PROVENIENZA	Num. / Parole / Data della presentazione (giorno e mese, ora e minuti) / VIA / INDIC. EVENTUALI D'UFFICIO	

N.B. – Scrivere una sola parola per casella; mai a tergo dei modelli. Il telegramma deve essere scritto con chiarezza per modo che la lettura sia facile.

GABINETTO DEL MINISTRO DI GRAZIA E GIUSTIZIA
SPEDITO 8 GEN 1947 ORE
UFFICIO TELEGRAFO E CIFRA

Destinatario: PROCURATORE GENERALE CORTE APPELLO

Destinazione: NAPOLI

Testo:

131.1929/3023/46 Uff. I Affari Penali

Riferimento nota 24 ottobre a° 1545/46 Divisione II^ pregasi sollecitare definizione procedimento contro DOMBRE' Guglielmo, FUNAGALLI Mario, GENEZZINI Pasquale et PRIEG Filippo imputati furto et ricettazione in danno Forze alleate, pendente presso Procura Repubblica codesta città stop attendo assicurazione

Ministro GIULIO

Spazio riservato alla dichiarazione di *Stato* o *Cifra di Stato* e bollo del funzionario mittente.

di Stato

(1) Ufficio o funzionario autorizzato a spedire telegrammi di Stato. — Si raccomanda di non omettere questa indicazione né quella relativa al Ministero da cui l'Ufficio o funzionario dipende.

GRAZIA E GIUSTIZIA – Bollo dell'Ufficio di Accettazione – OSPEDALETTI

SCONTRINO di RICEVUTA da consegnarsi al mittente del TELEGRAMMA

N. ...

di part. ...

per ...

ore ...

Indicazioni eventuali

Declassified E.O. 12356 Section 3.3/NND No. 785016

AVVERTENZE

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

(Approvate col R. Decreto N. 637 del 20 giugno 1909)

ART. 6. — In assenza del funzionario titolare i telegrammi di Stato in franchigia potranno essere spediti dal sostituto, il quale dovrà firmare con la formula: *Per il . . . .* (qualifica del titolare).

ART. 7. — Nell' interno del Regno qualunque funzionario, a cui sia diretto un telegramma di Stato in franchigia è autorizzato a rispondere con altro telegramma di Stato in franchigia, purchè presenti il telegramma-domanda che gli è stato recapitato, e da questo risulti manifesta la necessità di una risposta telegrafica.

ART. 10. — I telegrammi di Stato in franchigia emessi dai funzionari e incaricati dei pubblici servizi indicati agli art. 4 e 5 debbono soddisfare alle seguenti condizioni:

a) essere scritti su speciali moduli di forma, colore e dimensioni determinati dal Ministero delle Poste e dei Telegrafi e che ciascun Ministero si provvede direttamente dall' Economato generale o altrimenti;

b) *trattare esclusivamente gli affari di servizio relativi alle attribuzioni ufficiali del funzionario mittente;*

c) essere compilati in termini concisi e senza prolissità non necessaria;

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

e) portare la firma chiaramente leggibile del funzionario mittente, preceduta dalla qualifica del suo grado o incarico;

f) portare in calce, nello spazio a ciò riservato, l'indicazione scritta e firmata dal mittente stesso, «di Stato» o «cifra di Stato» se il telegramma è cifrato. L'una e l'altra dichiarazione possono anche essere apposte con bollo, ma debbono essere sempre firmate dal mittente e autenticate col bollo di ufficio del mittente medesimo;

g) essere diretti alle autorità con le quali il mittente gode franchigia.

Non si considerano come corrispondenti alle norme del comma b) *ma si trattano come privati;*

1° — *i telegrammi di auguri, di felicitazioni, condoglianze e simili;*

2° — *i telegrammi che* **pur avendo relazione col servizio,** *sono emessi nell' interesse del funzionario mittente o di terze persone,* **come domande di congedi, sussidi e simili.**

ART. 11. — Eccettuati i casi indicati dal Ministero delle Poste e dei Telegrafi, non sono ammessi telegrammi di Stato in franchigia per l'interno della città.

ART. 13. — *E' obbligatorio l'uso dei telegrammi-espresso* quando essi possono giungere al destinatario in tempo utile pei provvedimenti di sua competenza.

ART. 16 — I telegrammi spediti da funzionari ed incaricati di pubblici servizi indicati agli art. 4 e 5 sono soggetti a sindacato, da parte del Ministero delle Poste e Telegrafi, per il contenuto, l'urgenza, l'importanza e la lunghezza.

I mittenti dei telegrammi ritenuti abusivi sono tenuti a pagarne la tassa secondo la tariffa vigente pei telegrammi privati.

(1104506) Roma 1945 - Istituto Poligrafico dello Stato - G. C. (500 blocchi)

Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

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FILE
1164

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 250.52

7 November 1946

SUBJECT: Court of Inquiry.

TO : Chief Commissioner,
Allied Commission,
APO 794.

Reference this Headquarters letter, G-5: 250.52 of 7 November 1946.

It would be appreciated if the reply to the above referenced letter is expedited.

BY COMMAND OF LIEUTENANT GENERAL LEE:

A. L. HAMBLEN
Colonel, G.S.C.
Assistant Chief of Staff, G-5

LEGAL SUB - COMMISSION
CIC-CIA
DCLO
CHIEF COUNSEL
SECTION
Rec'd NOV 30 1946

172

Declassified E.O. 12356 Section 3.3/NND No. 785016

HEADQUARTERS ALLIED COMMISSION
No. 794
LEGAL DIVISION

AG/4011/3/1.

7 January 1947

SUBJECT : Thefts from U.S. Forces at Capri
- Willy Dorbre' -

TO : The Ministry of Foreign and Justice
(Attn. Dr. Bonfadi)

1. Reference this Sub-Commission's letter AG/4011/3/1 of 11 December 1946 and your Prot. No. 131.1429/3023/46 UFF. 1° AP of 4 November 1946.

2. Your attention is drawn to the fact that news of the action taken by the Pretore of Capri has yet been received in the above mentioned case which has now been outstanding since August 1946.

G.C. BARRAFORD,
Lt. Colonel,
Deputy Chief Legal Advisor.

See File 934.22 for further letter to Ministry dated 28 March '47

1.1

Declassified E.O. 12356 Section 3.3/NND No. 785016

LEGAL
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1147

4011/3

ALLIED FORCES HEADQUARTERS
G-5 Section
APO 512

G-5: 934.22

31 December 1946

SUBJECT: Thefts from U.S. Forces.

TO : Chief Commissioner,
Allied Commission,
APO 794.

1104

Reference is made to your AC/4011/3/L dated 10 December 46.

1. It is requested that you continue to press the Minister of Pardon and Justice for action in this case which has now been outstanding since August.

BY COMMAND OF GENERAL MORGAN:

for A. L. HAMBLEN
Colonel, G.S.C.
Assistant Chief of Staff, G-5.

LEGAL SUB - COMMISSION
CIO-CIA
P.W.D.
CHIEF COUNSEL
ITALIAN SECTION
Recd

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Declassified E.O. 12356 Section 3.3/NND No. 785016

113 A

FILE

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL DIVISION

AG/4011/F/L. 3 January 1947.

SUBJECT : Offences to the detriment of British soldiers.

TO : The Ministry of Pardon and Justice.

1. Reference your Officio III° A. . Prot.N° 1°N.173.659 dated 11 December '46 regarding the action of a Customs Guard who fired two shots killing one British Sailor and wounding another in a lorry that had refused to stop for Customs examination.

2. The question of wiether or not criminal proceedings should be taken against the said guard is a matter entirely within the competence of the Italian judicial authorities, and one on which this Division does not desire to express any opinion.

MUSGRAVE THOMAS,
Italian Branch,
for Chief Legal Officer.

1109.

Declassified E.O. 12356 Section 3.3/NND No. 785016

Subject: Offences to the detriment of British soldiers.

The Ministry of Garadin and justice informs this Legal Division that the „Procura Militare" of Spezia has made investigations relating to the trial of GREGORIO GIUSEPPE, a member of the Italian „Finanza", who, while on duty at the Custom Control Post, has fired on the 20th October 1946 at Sarona two pistol-shots against a British truck, which had not obeyed the order to stop. The shots caused the death of Sailor BLAK JOHNSON and the wounding of another sailor, a certain DAVIES.

Said Office of P.M. has recognised that the Italian member of „Finanza" had made unlawful use of arms during guard-service, and requested from Ministry the authorisation to proceed against Gregorio, in accordance with Art. 16 of C.P.P. 165

The Ministry adresses the Legal Division of the above, in order to obtain its Orentual opinion.

For the Minister

Signature illegible.

Mod 402

4011/3

111 A

Roma, 18 Dicembre 19 46

Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE DELLA STATISTICA E DEL CASELLARIO

Alla COMMISSIONE ALLEATA
Sottocommissione Legale
R O M A

Ufficio III°A.P. Sul. N. 138.133.3659 Risposta al f.r N.
del .

OGGETTO Reati in danno di militari britannici.-

e per conoscenza:

ALL'UFFICIO COLLEGAMENTO

S E D E

La Procura Militare di La Spezia ha istruito un processo a carico della Guardia di Finanza italiana GREGORIO Giuseppe, il quale, il 20 ottobre c.a., in Savona, essendo di servizio al posto di controllo doganale, esplose due colpi di pistola in direzione di un autoveicolo inglese che aveva arbitrariamente ripreso la marcia sottraendosi all'obbligo di presentare i documenti giustificativi, e cagionò la morte del marinaio BLAK Johnson e il ferimento di altro marinaio, tal DAVIES.-

Avendo quell'Ufficio del P.M. ravvisato nel fatto della Guardia di Finanza l'eccesso colposo nell'uso legittimo delle armi in servizio, ha chiesto a questo Ministero la autorizzazione a procedere, prescritta dall'art. 16 del C.P.P.-

Tanto si comunica a codesta On.le Sottocommissione per [illegible] eventuali osservazioni che esso ritenga di fare al riguardo.-

per il MINISTRO

LEGAL SUB - COMMISSION

CJO-CLA		
OCLO		
CHIEF COUNSEL		

ISTITUTO POLIGRAFICO DELLO STATO

Declassified E.O. 12356 Section 3.3/NND No. 785016

Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE DELLA STATISTICA E DEL CASELLARIO

Alla COMMISSIONE ALLEATA
Sottocommissione Legale
R O M A

Ufficio III°A.P. Sul. V.° 138.133.3659 Risposta al f. V.° del .

OGGETTO Reati in danno di militari britannici.-

e per conoscenza:
ALL'UFFICIO COLLEGAMENTO
S E D E

La Procura Militare di La Spezia ha istruito un processo a carico della Guardia di Finanza italiana GREGORIO Giuseppe, il quale, il 20 ottobre c.a., in Savona, essendo di servizio al posto di controllo doganale, esplose due colpi di pistola in direzione di un autoveicolo inglese che aveva arbitrariamente ripreso la marcia sottraendosi all'obbligo di presentare i documenti giustificativi, e cagionò la morte del marinaio BLAK Johnson e il ferimento di altro marinaio, tal DAVIES.-

Avendo quell'Ufficio del P.M. ravvisato nel fatto della Guardia di Finanza l'eccesso colposo nell'uso legittimo delle armi in servizio, ha chiesto a questo Ministero la autorizzazione a procedere, prescritta dall'art. 16 del C.P.P.-

Tanto si comunica a codesta On.le Sottocommissione per le eventuali osservazioni che esso ritenga di fare al riguardo.-

per il MINISTRO

LEGAL SUB - COMMISSION
CJO-CLA
OCLO
CHIEF COUNSEL
ITALIAN SECTION
Recd 30 DEC 1946

1167

Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL DIVISION

7 Le
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AC/4011/3/L. AP/rm.
10 December 1946.

SUBJECT : Thefts from U.S. Forces
Capri - Willy Dombre' et al.

TO : Ministry of Pardon and Justice.
(Attn. Dott. BONFILLI)

1. Reference yesterday's telephone conversation (Dr. BONFILLI - Sig. PISAPIA), would you please suggest the Penal Affairs Office to take a prompt action in this case. (Your letter Prot. No. 131.1429/2023/46 Uff. 1 AP of 4 November 1946 refers).

MUSGRAVE THOMAS,
Italian Branch,
for Chief Legal Advisor.

166

Declassified E.O. 12356 Section 3.3/NND No. 785016

4011/3

1949

Legal
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ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 934.22

3 December 1946

SUBJECT: Thefts from U.S. Forces Capri

TO : Chief Commissioner,
Allied Commission,
APO 794.

108A 107A

Reference this Headquarters letter G-5: 934.22 of 12 November and your letter AC/4011/3/L of 18 November.

Will you please state what the position now is.

BY COMMAND OF LIEUTENANT GENERAL LEE:

A.L. HAMBLEN
Colonel, G.S.C.
Assistant Chief of Staff, G-5.

LEGAL SUB-COMMISSION
CIO-CLA
DCLO
CHIEF COUNSEL
ITALIAN SECTION
Rec'd DEC 5 1946

165

2003

Declassified E.O. 12356 Section 3.3/NND No. 785016

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL DIVISION

FILE
10 PA

AC/4011/3/L. AP/rm.
10 December 1946.

SUBJECT : Thefts from U.S. Forces
Capri - Willy DOMBIE' et al.

TO : AFHQ, G-5.

1. Reference is made to your G-5 : 934.22 of 3 December 1946.

2. A further reminder has been sent by the Ministry to the Pretore of Capri who has not as yet forwarded his report.

For the Chief Commissioner :

MUSGRAVE THOMAS,
Italian Branch,
for Chief Legal Advisor.

Declassified E.O. 12356 Section 3.3/NND No. 785016

Mod 404

Roma, 4 ottobre 1946

108 B

Ministero di Grazia e Giustizia
DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE E DEL CASELLARIO

Alla COMMISSIONE ALLEATA
Sottocommissione Legale
ROMA

Ufficio I° A.P.
Prot. N° 131.1429/3023/46

Risposta al f. del 27.9.1946
Div. Sez. AG/4011/3/L/

OGGETTO Furti commessi in danno delle FF.AA. Alleate in Capri.-

e per conoscenza:
ALL'UFFICIO COLLEGAMENTO
S E D E

Di seguito alla Ministeriale pari numero dell'11 ottobre u.s., e in risposta alla nota di cui sopra si comunica che il Procuratore della Repubblica di Napoli a seguito di denuncia dei carabinieri di Capri, procede a carico di DOMBRE' Guglielmo, FUMAGALLI Maria, GENEZZINI Fedede e PEREGO Filippo per i reati di furto e ricettazione in danno delle Forze Alleate.-

In data 6 settembre u.s. il detto Magistrato ha trasmesso gli atti processuali al Pretore di Capri per la istruzione, di cui ieri ha sollecitato la definizione.-

d'ordine del MINISTRO

163

2010

Declassified E.O. 12356 Section 3.3/NND No. 785016

FILE
1084

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL DIVISION

AO/4011/3/L

AJ/ns
18 November 1946

SUBJECT : Tourists from U.S. Forces CAPRI - Willy SOMERS' et al.

TO : AFHQ, G-5.

1. Reference your G-5:931.22 of 22 October 1946 and 12 November 1946.

2. Advice has now been received from the Ministry of Pardon and Justice that the Procuratore della Repubblica of Naples forwarded on 6 September 1946 the file in the case of the above mentioned to the Pretore of Capri for a preliminary investigation.

3. A Questioner has been recently sent to the Pretore of Capri requesting him to forward his report at an early date.

For the Chief Commissioner :

GUSTAVE THOMAS,
Italian Branch,
for Chief Legal Advisor.

7 162

Declassified E.O. 12356 Section 3.3/NND No. 785016

4011/3
V

LEGAL

107A

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 934.22

12 November 1946

SUBJECT: Thefts from U.S. Forces CAPRI.

TO : Chief Commissioner,
Allied Commission,
APO 794.
(Attn: Legal Division)

Reference G-5: 934.22, 24 September 1946, AC/4011/3/L, 27 September 1946, and G-5: 934.22, 22 October 1946.

1. Please inform this Headquarters the position of the trial of Italians who were involved in the theft of U.S. Army property at Capri.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

A. L. HAMBLEN
Colonel, G.S.C.
Assistant Chief of Staff, G-5

HEADQUARTERS 1-hrs/1000 NOV 15 1946 LEGAL DIVISION

161

LEGAL SUB - COMMISSION
CJO - CLA
DCLO
CHIEF COUNSEL
ITALIAN SECTION
Rec'd NOV 1 1946

Declassified E.O. 12356 Section 3.3/NND No. 785016

Mod.404

4011/3

Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE E DEL CASELLARIO

Roma, 4 Novembre 1946

1064

Alla COMMISSIONE ALLEATA
Sottocommissione Legale
ROMA

100A

Ufficio I° A.P.
Prot. N° 131.1429.3023/46

Risposta al f.to del 27.9.1946
Div. Sez. N°C/4011/3/L

OGGETTO Furti commessi in danno delle FF.AA. in Capri.-

e per conoscenza:
ALL'UFFICIO COLLEGAMENTO
S E D E

^^^^^^^^^^^^

Di seguito alla Ministeriale pari numero dell'11 ottobre u.s., e in risposta alla nota di cui sopra, si comunica che il Procuratore della Repubblica di Napoli a seguito di denunzia dei carabinieri di Capri, procede a carico di DOMBRE' Guglielmo, FUMAGALLI Maria, GENEZZINI Fedele e PEREGO Filippo per i reati di furto e ricettazione in danno delle Forze Alleate.-

In data 6 settembre u.s. il detto Magistrato ha trasmesso gli atti processuali al Pretore di Capri per la istruzione, di cui ieri ha sollecitato la definizione.-

IL MINISTRO

1 160

Declassified E.O. 12356 Section 3.3/NND No. 785016

FILE

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL DIVISION

105A

AC/4011/3/L

AP/ns
26 October 1946

SUBJECT : Thefts from U.S. Forces, CAPRI.
Willy DOBRE, Maria FUMAGALLI et al.

TO : Ministry of Pardon and Justice.

1. Reference is made to your 131.1429/3023/46 Ufficio II° AP of 11 October 1946 and to this Division's letter AC/4011/3/L of 27 September 1946.

2. Would you please urge the Procuratore Generale of the Naples Court of Appeal to advise this Division of the action taken against the above-mentioned accused.

MUSGRAVE THOMAS,
Italian Branch,
for Chief Legal Advisor.

Declassified E.O. 12356 Section 3.3/NND No. 785016

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 934.22

22 October 1946

SUBJECT: Thefts from US Forces CAPRI.

TO : Chief Commissioner
Allied Commission
APO 794

Reference your letter AC/4011/3/L dated 27 September 1946.

Are you yet in a position to supply further information please?

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

A. L. HAMBIEN
Colonel, G.S.C.
Assistant Chief of Staff, G-5.

LEGAL SUB-COMMISSION
U.S.S.R.
U.S.D.
UNITED COUNSEL
ITALIAN SECTION
T...

Declassified E.O. 12356 Section 3.3/NND No. 785016

2894

404/3

Legal Div
1037

HQ. 6686TH RAILHEAD GROUP (PROV)
PENINSULAR BASE SECTION
APO 782

AG 601 BBENG. 24 October 1946

SUBJECT: Transmittal of Correspondence pertaining to Allied Commission.

TO : Headquarters Allied Commission, APO 794.

The attached correspondence is forwarded as a matter pertaining to your office.

FOR THE COMMANDING OFFICER:

O. M. MADSEN
Major, AGD
Adjutant

11 Incls:

LEGAL SUB - COMMISSION
CJO - CLA
OCLO
CHIEF COUNSEL
ITALIAN SECTION
Rec'd OCT 25 1946

Declassified E.O. 12356 Section 3.3/NND No. 785016

PROCURA DEL REGNO DI CASTROVILLARI

N. 1499 Li 3 ottobre 1946

Risposta a nota del 19 N.

OGGETTO: Cause concernenti interessi Alleati.
mese di settembre 1946

Al l'Ufficiale di Collegamento=Sottocommissione Legale Alleata

Allegati N. NAPOLI

Con riferimento alla circolare 4 maggio 1945,n° 2777 dellá Procura Generale di Catanzaro,si trasmettono ciascuno in doppio esemplare,gli elenchi dei procedimenti penali concernenti gli interessi Alleati definiti ed in istruttoria negli uffici giudiziari di questo Circondario alla fine di settembre 1946.

Con ossequio.

IL PROCURATORE DELLA REPUBBLICA

V

Declassified E.O. 12356 Section 3.3/NND No. 785016

PROCURA DELLA REPUBBLICA=CASTROVILLARI

ELENCO MENSILE NOMINATIVO DEI PROCEDIMENTI PENALI PER REATI DI QUALSIASI SPECIE COMMESSI IN DANNO DEI GOVERNI ALLEATI E DELLE LORO FORZE AMMATE NONCHE DEGLI APPARTENENTI A DETTI GOVERNI E FORZE .

D E F I N I T I

DURANTE IL MESE DI SETTEMBRE 1946 DAGLI UFFICI GIUDIZIARI DEL CIRCONDARIO DI CASTROVILLARI:

N E G A T I V O

Castrovillari, 3 ottobre 1946.

Il Segretario

Visto: IL PROCURATORE DELLA REPUBBLICA

155

Declassified E.O. 12356 Section 3.3/NND No. 785016

PROCURA DELLA REPUBBLICA° CASTROVILLARI

ELENCO MENSILE NOMINATIVO DEI PROCEDIMENTI PENALI PER REATI DI QUALSIASI SPECIE COMMESSI IN DANNO DEI GOVERNI ALLEATI E DELLE LORO FORZE ARMATE NONCHE DEGLI APPARTENENTI A DETTI GOVERNI E FORZE;

PENDENTI IN ISTRUTTORIA
ed
in giudizio

DA OLTRE DUE MESI DALLA DATA DELLA SEGNALAZIONE DELLA POLIZIA ALLEATA

ALLA DATA DEL 30 SETTEMBRE 1946:

Per le Preture del Circondario.....negative

Per la Procura di Castrovillari .....negative

Castrovillari, 3 ottobre 1946.

Il Segretario

Visto: IL PROCIRATORE DELLA REPUBBLICA

2019

Declassified E.O. 12356 Section 3.3/NND No. 785016

TRIBUNALE DI REGGIO CAL.

N. 1424 Prot. Reggio Cal. I-IO-1946

Ill/mo Sig. Capo dell'Ufficio
Legale della Force Allied
Whsls.

Pregiomi ~~comunicare~~ rimettere gli acclusi adempimenti relativi a processi in materia annonaria ed in danno delle forze alleate, definiti da questo Tribunale nel mese di settembre 1946

Il Presidente

153.

2020

Declassified E.O. 12356 Section 3.3/NND No. 785016

Tribunale d. Reggio Cal.

Adempimento mensile circa i procedimenti penali contro la disciplina dei comuni, disposti con circolare 8/I/944 N.17 di prot. dell'Ecc.za il Primo Presidente della Corte di Appello di Messina:

processi annonari per il giudizio rimasti pendenti alla fine del mese di agosto 1946 N.14

processi annonari pervenuti durante il mese di settembre N.7

processi annonari definiti durante il mese di settembre N.3

processi rimasti pendenti alla fine del mese di settembre N.18

Dei 14 processi annonari in materia annonaria N.18 sono stati fissati nelle prossime udienze di Ottobre

Reggio Cal.=1=10=1946

Il Cancelliere

Il Presidente

152

Declassified E.O. 12356 Section 3.3/NND No. 785016

TRIBUNALE DI REGGIO CAL.

RAPPORTO MENSILE

I=Casi riguardanti interessi alleati:

a) I casi pendenti al 30=9=946 ammontano a N.zero processi con zero imputati.

b) I casi definiti durante il mese di settembre 1946 N.zero processo con imputati.

c) Il Tribunale di Reggio Cal.ha definito n.15 processi con n.19 imputati durante il periodo dal 1 al 30 settembre 1946 paragonando a N.21 processi con 40 imputati durante il mese precedente.

Al 31=8=1946 vi erano 1 processo con 27 imputato detenuti paragonando a n.zero processi con 36 imputati durante il mese precedente.

Reggio Cal.1=10=1946

Il Cancelliere

Il Presidente

151

2022

Declassified E.O. 12356 Section 3.3/NND No. 785016

TRIBUNALE PER I MINORENNI DI

REGGIO CALABRIA

Rapporto mensile

I) Casi riguardanti interessi alleati

a) i casi pendenti al 30-8-1946 ammontano a N.zero processi con zero imputati

b) i casi definiti durante il mese di settembre 1946 N.zero processi con zero imputati

c) Il Tribunale di Reggio Cal.ha definito N.zero processi con n.zero imputati minorenni durante il periodo dall'1 al 30 settembre 1946. Al 30-9-946 vi erano zero processi con zero detenuti pendenti per il giudizio

Reggio Cal. 1-10-1946

Il Cancelliere

Il Presidente

150

2021

Declassified E.O. 12356 Section 3.3/NND No. 785016

TRIBUNALE PER I MINORENNI DI

REGGIO CALABRIA

Adempimento mensile circa i procedimenti penali contro la disciplina dai comunic,disposti con circolare 8/I/44 N.17 di prot.dell' E.za il Primo Presidente della Corte di Appello di Messina;

1)processi annonari per il giudizio rimasti pendent alla fine del mese di settembre 1946 N.zero

2)Processi annonari pervenuti durante il mese di settembre N.zero

3)Processi definiti durante il mese di settembre N.zero

4)Processi annonari rimasti pendenti alla fine di settembre N.zero

Reggio Cal.I=IO=I946

Il Cancelliere

Il Presidente

1 149

Declassified E.O. 12356 Section 3.3/NND No. 785016

TRIBUNALE PER I MINORENNI DI

REGGIO CALABRIA

Elenco dei processi pendenti da oltre due mesi riguar_
danti reati accertati dalla polizia militare alleata
o reati commessi dalla Polizia Italiana per fatti com-
messi in danno delle forze alleate

N E G A T I V O

Reggio Cal. I-IO-1946

Il Cancelliere

Il Presidente

TRIBUNALE PENALE CIVILE

Declassified E.O. 12356 Section 3.3/NND No. 785016

TRIBUNALE PER I MINORENNI DI

REGGIO CALABRIA

Elenco dei processi definiti da questo Tribunale nel mese di settembre 1946 relativi a reati commessi in danno delle forze alleate accertate dalla Polizia Italiana o dalla polizia alleata:

N E G A T I V O

Reggio Cal. 1-10-1946

Il Cancelliere. Il Presidente

2026

Declassified E.O. 12356 Section 3.3/NND No. 785016

TRIBUNALE PER I MINORENNI DI

REGGIO CALABRIA

Elenco dei processi pendenti da oltre due mesi riguardanti reati accertati dalla polizia militare alleata o reati accertati dalla Polizia Italiana per fatti commessi in danno delle forze alleate

N E G A T I V O

Reggio Cal. I-10-1946

Il Cancelliere

Il Presidente

2021

Declassified E.O. 12356 Section 3.3/NND No. 785016

TRIBUNALE DI

REGGIO CALABRIA

Elenco dei processi definiti da questo Tribunale al mmese di settembre 1946 relativi a reati commessi in danno delle forze alleate accertate dalla polizia Italiana o dalla polizia alleata:

N E G A T I V O

Reggio Cal.1/10/1946

Il Cancelliere

Il Presidente

TRIBUNALE CIVILE E PENALE

145

2028

Declassified E.O. 12356 Section 3.3/NND No. 785016

Fld 401/V/13

Mod 40 c

Roma, 11 Ottobre 1946

1021A

Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE E DEL CASELLARIO

Alla COMMISSIONE ALLEATA
Sottocommissione Legale
ROMA

Ufficio II° A.P.

Prot. N° 131.1429/3023/46

Risposta al foglio
Div. Sez. N°

OGGETTO Furti commessi in danno delle FF.AA. di Capri.-

e per conoscenza:
ALL'UFFICIO COLLEGAMENTO
SEDE

****

Si comunica che, in pari data, sono state richieste al Procuratore Generale presso la Corte di Appello di Napoli le notizie desiderate da codesta Commissione.-

Si daranno ulteriori comunicazioni appena sarà pervenuta la risposta.-

IL MINISTRO

Gen 144

LEGAL SUB-SECTION
CMO GHQ
AFHQ
CHIEF COUNSEL
ITA SECTION
RECD OCT 18 1946

2023

Declassified E.O. 12356 Section 3.3/NND No. 785016

Mod 404

Roma, 27 settem. 1946

Ministero di Grazia e Giustizia
DIREZIONE GENERALE DEGLI AFFARI PENALI DELLE GRAZIE E DEL CASELLARIO

Uffizio II° A.P.
Prot. N° 131.12/207

Alla COMMISSIONE ALLEATA
Sottocommissione Legale
ROMA

Risposta al foglio del
Div. Sez. N°

OGGETTO: Procedimenti penali per reati commessi in danno degli Alleati.

All.

Per opportuna notizia si trasmette copia del telegramma circolare 9966/256 Cab., inviato da questo Ministero il 27 agosto u.s. ai Primi Presidenti ed ai Procuratori Generali delle Corti di Appello per sollecitare la trattazione dei procedimenti penali per reati commessi in danno degli Alleati.

Si comunica altresì che i Capi delle Corti di Appello hanno già date assicurazione circa la scrupolosa osservanza delle disposizioni impartite da questo Ministero.

pel MINISTRO

FILED
OCT 13 1948
LEGAL SUB-COMMISSION
CLO
DCLO
Chief Counsel
CLO
Italian Section
CL RKS
OCT 5 1948

C O P I A

COPIA TELEGRAMMA STATO

101 A

AI PRIMI PRESIDENTI ET PROCURATORI GENERALI
DELLE CORTI DI APPELLO DI ANCONA - BARI - BOLOGNA - BRESCIA - CAGLIARI - CATANIA - CATANZARO - FIRENZE - GENOVA - L'AQUILA - MESSINA - MILANO - NAPOLI - PALERMO - PERUGIA - POTENZA - ROMA - TORINO - TRIESTE - VENEZIA -

^^^^^^^^^^^^^^^

Gab. 9966/256 Commissione Alleata segnala ritardo trattazione procedimenti interessanti forze alleate et conseguenze damnose derivanti punto Pregasi sollecitare autorità dipendenti richiamando attenzione sulle istruzioni impartite con circolari 8 marzo, 28 Luglio et 26 dicembre 1944 punto Attendesi assicurazione punto
Ministro Gullo

PER COPIA CONFORME

Roma 28 Settembre 1946

IL DIRETTORE CAPO DELL'UFFICIO II° AFFARI PENALI

142

Declassified E.O. 12356 Section 3.3/NND No. 785016

Subject: Penal proceedings relating to offences committed to the detriment of the Allies.

The Ministry of Pardon and Justice forwards copy of the circular signal sent by themselves on the 27th August 1946 to First Presidents and General Prosecutors of the Courts of Appeal, in order to hasten the penal proceedings for offences committed to the detriment of the Allies.

Said Presidents of the Courts of Appeal had already confirmed the signal, assuring that the orders received will be scrupulously observed.

Signature illegible. 141

Declassified E.O. 12356 Section 3.3/NND No. 78516

Copy.

Copy of the Signal of the State.

To the First Presidents and General Prosecutors of the Courts of Appeal of Ancona - Bari - Bologna - Brescia - Cagliari - Catania - Catanzaro - Florence - Genoa - L'Aquila - Messina - Milan - Naples - Palermo - Perugia - Potenza - Rome - Turin - Triest - Venice.

Cab. 9966/256 Allied Commission notifies delay proceedings regarding Allied Forces and its detrimental consequences stop Please urge the dependent authorities to speed up trials drawing their attention to our instructions contained in circular letters of 8th March, 28th July and 26th December 1944 stop. Confirmation expected stop Minister Gullo.

145

Certified true copy.

28th September 1946.

Declassified E.O. 12356 Section 3.3/NND No. 785016

cutors of the Courts of Appeal of Ancona - Bari - Bologna - Brescia - Cagliari - Catania - Catanzaro - Florence - Genoa - L'Aquila - Messina - Milan - Naples - Palermo - Perugia - Potenza - Rome - Turin - Triest - Venice.

~~~~~

. Cab. 9966/256 Allied Commission notifies delay proceedings regarding Allied Forces and its detrimental consequences stop Please urge the dependent authorities to speed up trials drawing their attention to our instructions contained in circular letters of 8th March, 28th July and 26th December 1944 stop. Confirmation expected stop Minister Gullo.

~~~~~

Certified true copy.

Rome, the 28th September 1946.

Director Chief of 2nd Office Penal Affairs

Signature illegible.

Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

100A

FILE

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB-COMMISSION

AG/4011/3/L.

AL/rm.
27 September 1946.

SUBJECT : Thefts from U.S. Forces - Capri.

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

1. Pursuant to this mornings telephone conversation (Dr. BORELLI - Mr. PIZAPIA) the following letter from AFHQ is referred to you:

"On 22 August 1946, Colonel BENNETT and Colonel WEBER met the Italian Minister of Grace and Justice relative to the trial of Italians who had committed offences against the United States.

The following persons were charged with theft of U.S. Army Property at Capri.

a. Name of accused:
Willy POMMER
Mario FUSCARELLI
Fedele GENOZZINI
Filippo PERICO

b. Charges preferred against each accused:
Illegal possession of Allied property removed from the Isle of Capri.

c. Designation of the Court to which the case has been referred.
The Tribunals, Naples, Italy.

2. Would you please request the appropriate authority to bring this case to trial without delay and advise this Sub-Commission at an early date.

139

G.W. HARWAFORD,
Lt. Colonel,
Deputy Chief Legal Advisor.

Declassified E.O. 12356 Section 3.3/NND No. 785016

FILE

HEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL SUB COMMISSION

99A

AC/4011/7/L

AP/mm
27 September 1946

SUBJECT : Thefts from US Forces
CAPRI

TO : APHQ, G-5.

1. Reference is made to your G-5 : 334.22 of 24 September 1946.

2. Contents of your letter have been referred to the Ministry of Pardon and Justice for appropriate action as requested.

3. You will be advised as soon as a reply is obtained.

For the Chief Commissioner :

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

138

2035

Declassified E.O. 12356 Section 3.3/NND No. 785016

4011/3 FBI

1981

Plead 984

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 334.22

24 September 1946.

SUBJECT: Thefts from US Forces - CAPRI.

TO : Chief Commissioner,
Allied Commission,
APO 794.

1. On 22 August 1946, Colonel BARRATT and Colonel WEBER met the Italian Minister of Grace and Justice relative to the trial of Italians who had committed offences against the United States.

2. The following information is now supplied concerning the theft of U.S. Army Property at CAPRI.

a. Name of accused:
Willy Dombre
Maria Fumagalli
Fedele Cebozzini
Filippo Perego

b. Charges preferred against each accused:
Illegal possession of Allied property removed from the Isle of Capri.

c. Designation of the Court to which the case has been referred.
The Tribunale, Naples, Italy.

3. Will you please inform this Headquarters of the action taken by the Ministry of Grace and Justice and press them to bring this case to trial without delay.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

137

A.L. HAMBLEN
Colonel, G.S.C.
Assistant Chief of Staff, G-5

SUB COMMISION
O
CO
Chief Counsel
CJO
Italian Section
CL RKS
SEP 27 1946

Declassified E.O. 12356 Section 3.3/NND No. 785016

Mod 345

4011/3 Roma 25-1-1946

Ministero di Grazia e Giustizia
Uff. Sup. Personale
Ufficio 2°

Div. 1 Sez. 1 1995 g/720

Oggetto

Al la Commissione Alleata. S/c legale
Roma

Registrato all'Uff. Div. Sez. N°

Si comunica, per conoscenza, copia del telegramma diretto da questo Ministero, in data 20 corrente, ai Capi della Corte di Appello di Firenze per assicurare la pronta trattazione delle cause per reati in danno degli Alleati, davanti ai Tribunali di Livorno e Pisa.

PEL MINISTRO
A. Manca

136

Declassified E.O. 12356 Section 3.3/NND No. 785016

9PP Mod. 1382 M. G.

MINISTERO DI GRAZIA E GIUSTIZIA

(1) Ufficio Sup.Personale-Ufficio 2+

Bollo dell'ufficio di accettazione

TELEGRAMMA DI STATO

(Veggansi le importanti avvertenze stampate a tergo)

INDICAZIONI D'URGENZA	UFFICIO TELEGRAFICO	Spedito il ... 19 ... ore ... pel Circ. N.	CIRCUITO sul quale si deve fare l'inoltro del telegramma
D.D.D.	di ...	all'Ufficio di ... Trasmittente ...	

DESTINAZIONE	PROVENIENZA	Num.	Parole	Data della presentazione: giorno e mese	Data della presentazione: ore e minuti	VIA	INDIC. EVENTUALI D'UFFICIO

N.B. – Scrivere una sola parola per casella; mai a tergo dei modelli. Il telegramma deve essere scritto con chiarezza per modo che la lettura sia facile.

Destinatario: Primo Presidente et Procuratore Generale Appello

Destinazione: FIRENZE

Testo: Seguito accordi intervenuti con Autorità Alleate pregasi disporre che Tribunali Livorno et Pisa accordino precedenza assoluta trattazione cause reati danno Alleati punto Attendesi assicurazione telegrafo punto

135

Ministro
Togliatti

Spazio riservato alla dichiarazione di *Stato* o *Cifra di Stato* e bollo del funzionario mittente.

Il Direttore Generale
Capo del Personale

(1) Ufficio o funzionario autorizzato a spedire telegrammi di Stato. — Si raccomanda di non omettere questa indicazione su quella relativa al Ministero da cui l'Ufficio o funzionario dipende.

Declassified E.O. 12356 Section 3.3/NND No. 785016

AVVERTENZE

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

(Approvate col R. Decreto N. 637 del 20 giugno 1909)

ART. 6. — In assenza del funzionario titolare i telegrammi di Stato in franchigia potranno essere spediti dal sostituto, il quale dovrà firmare con la formula: *Per il . . .* (qualifica del titolare).

ART. 7. — Nell' interno del Regno qualunque funzionario, a cui sia diretto un telegramma di Stato in franchigia è autorizzato a rispondere con altro telegramma di Stato in franchigia, purchè presenti il telegramma-domanda che gli è stato recapitato, e da questo risulti manifesta la necessità di una risposta telegrafica.

ART. 10. — I telegrammi di Stato in franchigia emessi dai funzionari e incaricati dei pubblici servizi indicati agli art. 4 e 5 debbono soddisfare alle seguenti condizioni:

a) essere scritti su speciali moduli di forma, colore e dimensioni determinati da' Ministero delle Poste e dei Telegrafi e che ciascun Ministero si provvede direttamente dall' Economato generale o altrimenti;

b) *trattare esclusivamente gli affari di servizio relativi alle attribuzioni ufficiali del funzionario mittente;*

c) essere compilati in termini concisi e senza prolissità non necessaria;

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

e) portare la firma chiaramente leggibile del funzionario mittente, preceduta dalla qualifica del suo grado o incarico;

f) portare in calce, nello spazio a ciò riservato, l'indicazione scritta e firmata dal mittente stesso, «di Stato» o «cifra di Stato» se il telegramma è cifrato. L'una e l'altra dichiarazione possono anche essere apposte con bollo, ma debbono essere sempre firmate dal mittente e autenticate col bollo di ufficio del mittente medesimo;

g) essere diretti alle autorità con le quali il mittente gode franchigia.

Non si considerano come corrispondenti alle norme del comma b) *ma si trattano come privati;*

1° — *i telegrammi di auguri, di felicitazioni, condoglianze e simili;*

2° — *i telegrammi che* **pur avendo relazione col servizio,** *sono emessi nell' interesse del funzionario mittente o di terze persone,* **come domande di congedi, sussidi e simili.**

ART. 11. — Eccettuati i casi indicati dal Ministero delle Poste e dei Telegrafi, non sono ammessi telegrammi di Stato in franchigia per l'interno della città.

ART. 13. — *E' obbligatorio l'uso dei telegrammi-espresso* quando essi possono giungere al destinatario in tempo utile pei provvedimenti di sua competenza.

ART. 16 — I telegrammi spediti da funzionari ed incaricati di pubblici servizi indicati agli art. 4 e 5 sono soggetti a sindacato, da parte del Ministero delle Poste e Telegrafi, per il contenuto, la urgenza, l'importanza e la lunghezza.

I mittenti dei telegrammi ritenuti abusivi sono tenuti a pagarne la tassa secondo la tariffa vigente pei telegrammi privati.

(1104306) Roma, 1945 - Istituto Poligrafico dello Stato - G. C. (600 blocchi)

Declassified E.O. 12356 Section 3.3/NND No. 785016

4011/3

Translation

It is transmitted, for information, copy of a ~~tex~~ cable, dated 20 Feb , sent by this Ministry to the Prime President and Procuratore Generale of the Court of Appeal of ~~the~~ Florence, giving instructions for the priority in trying cases involving Allied interests .

Translation of the cable

Further to previous agreements with the Allied authorities, it is requested that absolute priority be given to cases involving Allied interests ~~xxxxx~~ which will be tried before the Tribunals of Livorno and Pisa.

Please acknowledge receipt by wire.

ditto -
file this in
Allied Interest - Padding file

(TW)

Declassified E.O. 12356 Section 3.3/NND No. 785016

940

20 APRIL 10 JANUARY 46

(1) AO LIAISON OFFICE BAGUIO CITY ADDED

139 UNCLASSIFIED

SECRET EX HUGGINS EYES ONLY

PARE THE FO D.C.COMMD FOR OSMAN BLD RIGHT SIDE FOUR FEET DEA OFF TELEPHONE

INTERCEPTING TO PAPERS CALLED OF SIDE ENTIRELY THAT CURRENT TO MOST

PARKED OVER TO FRANCE OFFICE CONTINUED

133

Distribution: (Ops Hqs)

To : AO LIAISON OFFICE BAGUIO

SECRET

Legal Sub-[illegible]ision

308

Declassified E.O. 12356 Section 3.3/NND No. 785016

Legal

INCOMING MESSAGE

HEADQUARTERS ALLIED COMMISSION

Originator's Reference:

Date/Time of Origin: JAN 081125 A

Message Centre No: 6/6967

Date Time Rec'd: JAN 081630 A

Precedence: ROUTINE

FROM: AC LIAISON OFFICE NAPLES CITE ACLEG

TO : HQ ALCOM

UNCLASSIFIED.

Please expedite reply to this office letters number 7.11 of 24 and 27 December 45. Directions asked as to disposal of currency. Reference NLO/14 56.

AC DIST

ACTION LEGAL
INFO CHIEF COMMISSIONER
CAS
FILE 2
FLOAT

ACTION

Declassified E.O. 12356 Section 3.3/NND No. 785016

HEADQUARTERS
ALLIED COMMISSION
PUBLIC SAFETY LIAISON OFFICE
NAPLES

OUTGOING MESSAGE

Ref/ PS/7.11 8 January 1946

TO : Legal Sub-Commission, AC ROME.

FROM: Public Safety Liaison Office, NAPLES.

Please expedite reply to this Office letters No. 7.11 of 24th and 27th Dec. 45. Directions asked as to disposal of currency.

A.C. SAUNDERS, Major,
Public Safety Liaison Officer,
Naples.

Copy to:
LO, Naples.

131

Declassified E.O. 12356 Section 3.3/NND No. 785016

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
NAPLES COMMUNE
APO 394
PUBLIC SAFETY DIVISION

94A

Ref: PS/ 7.11

SUBJECT: RUGGIERO, Giorgio.

Date 27 Dec. 45

TO: Senior Legal Advisor,
HQ Allied Commission,
(through Legal Office, Naples).

1. Referring to copy of attached letter dated 24th November 1945, addressed as shown.

2. As I shall be leaving this Office in the near future, may a reply to the letter in question please be expedited, so that this matter may be decided please.

3. The accused is still in prison.

For the Commissioner:

A.C. SAUNDERS, Major,
Public Safety Officer.

Speak to Capt Gozzano to turn money to Finance office. 1 31 9/1/46

LEGAL SUBSECTION
CLO
DCLO
Chief Counsel
CJO ACS/jag.
Italian Section
CL RKS
28 DEC 1945

2043

Declassified E.O. 12356 Section 3.3/NND No. 785016

C011/2 f4

93A
CAT 1

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
NAPLES COMMUNE
APO 394
PUBLIC SAFETY DIVISION

Ref: PS/ 7.11

Date 24 November 1945

SUBJECT: RUGGIERO, Giorgio.

TO : Headquarters, Allied Commission,
(Attn: Public Safety Sub-Commission).

1. On 14 November 1945 at Torre Annunziata, Naples, following a large raid by Carabinieri and Allied Military Police, the house of the above named was searched and he was found in improper possession of the following Allied currency :-

68 - 1 Dollar Bills
22 - 5 " "
10 - 10 " "
9 - 20 " "
1 - 100 " "
6 - British £1 notes.

2. At the time of the search, the accused offered a bribe to the Provost Corporal to forget the incident.

3. He was arrested and is now incarcerated in Castellammare Civil Prison. He states the money was obtained by sale of watches.

4. As the Legal Office here is closing down, it is desirous to know the opinion of Legal Department as to:-

a) What charges to be preferred altogether against the accused.
b) Whether he will be tried by Italian or AMG Court (the offence was committed outside AMG territory)
c) Final disposition of the currency in question, which has been handed to me, against receipt.

129

For the Commissioner:

F.P. LUCKMAN
Major, A.C.,
S.C.A.P.C.

ACS/tp.

See Ltr of 27 Dec

Declassified E.O. 12356 Section 3.3/NND No. 785016

92A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4011/3/L. /es
18 December 1945

SUBJECT : Homicide of Sgt. DOUGLAS.

TO : Commissioner (Attn: Senior Legal Officer)
NAPLES Commune.

Enclosed herewith copy of letter of Procura Generale del Regno presso la Corte di Appello di Napoli Div. 2 No. 1455/45 di prot. of 17 November 1945 which is forwarded to you for action.

By Command of Rear Admiral STONE

MUSGRAVE THOMAS,
Italian Branch,
for Chief Legal Advisor.

Encl.

128

Declassified E.O. 12356 Section 3.3/NND No. 785016

Mod 40

Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE DELLA STATISTICA E DEL CASELLARIO

Ufficio I° A.P.
Prot. N° 138/bis.21/2910/1945

Risposta al f. del
Div. Pos. N°

Roma, 10 Dicembre 1945 A

911/3

91A

Alla COMMISSIONE ALLEATA
Sottocommissione Legale
R O M A

OGGETTO Omicidio in persona del sergente Alleato DONGLAS.-

All. n. 1

e, per conoscenza:
ALL'UFFICIO COLLEGAMENTO
G A B I N E T T O

Per opportuna conoscenza si trasmette in copia il rapporto 17 Novembre u.s. n° 1455/45 del Procuratore Generale presso la Corte di Appello di Napoli, concernente l'uccisione del sergente DONGLAS della Service Police.-

LEGAL [illegible]
CLO
DCLO
Chief Cou[illegible]
CJO
Italian [illegible]
CLERKS

per il MINISTRO

1 1:7

√ ← Send to SCO Naples for action as necessary

ISTITUTO POLIGRAFICO DELLO STATO

Declassified E.O. 12356 Section 3.3/NND No. 785016

4011/3

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

G-5: 000.5 26 November 1945

SUBJECT: Trials in Italian Courts.

TO : Headquarters, Allied Commission, APO 394.

-2 DIC 1945

Reference our letter G-5: 000.5, 2 November 1945, pertaining generally to inadequate sentences in Italian Courts, there is attached for your information, a list showing action by Italian Courts in 3 cases involving possession of British Army property.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

A. L. HAMBEEN,
Brigadier General GSC,
Assistant Chief of Staff, G-5.

Incl: as above

TO	INITIAL	DATE
DIRECTOR		
DEPUTY DIR.		
PERSONNEL		
PUBLIC		
G-1		
G-2		
SECRETARY		
CHIEF CLERK		

Checked with file
Letter read by PS
Enquiries made PS
File cannot be found
5/12/45

N.A. Chief

ALLIED COMMISSION 6228 HEADQUARTERS

Declassified E.O. 12356 Section 3.3/NND No. 785016

SUBJECT:-Security.

TO : 'G' 56 Area

The following are examples of light sentences and fines upon civilians found in possession of WD prop

Name & Address	Age	Offence	Date of offence	Ca
Vitulano Amelia di Alessandre No. 25. Via XXIV Maggio POGGIOMARINO.	-	Possession of 2 x 5.5" cloth bags and sticks of cordite. Rendering 3 rounds of 5.5" amn useless.	27.11.44	1 month's impris on 31.7.45. (sen
Verderame Raffaele di Giovanni No. 42. Via Passanti BOSCOREALE.	39	Possession of 2 x 3" mortar rubber tail units filled with nitro-cellulose powder from WD amn.	20.3.45	1 month's impris on 7.7.45. (Sent
Esposito Pasquale fu Pasquale No. 34. Nazionale MARIGLIANO.	37	Possession of about 4 yards of quad cable in new condition. This had been cut out of telephone system	17.2.45	3,000 lire fine

Lt. Colonel
Chief Ordnance Officer.

In the Field.
14 Nov 45
ETCJ/ECF

Declassified E.O. 12356 Section 3.3/NND No. 785016

Flag 'B'

Ref:-3.6.

The following are examples of light sentences and fines upon civilians found in possession of WD property :-

	Age	Offence	Date of offence	Court's findings
Alessandro cio	-	Possession of 2 x 5.5" cloth bags and sticks of cordite. Rendering 3 rounds of 5.5" amn useless.	27.11.44	1 month's imprisonment and 3,000 lire fin on 31.7.45. (sentence suspended).
di Giovanni	39	Possession of 2 x 3" mortar rubber tail units filled with nitro-cellulose powder from WD amn.	20.3.45	1 month's imprisonment and 1000 lire fine on 7.7.45. (Sentence suspended.
a Pasquale	37	Possession of about 4 yards of quad cable in new condition. This had been cut out of telephone system	17.2.45	3,000 lire fine on 7.7.45.

ALLIED COMMISSION SUB-COMMISSION HEADQUARTERS 6248

Lt. Colonel
Chief Ordnance Officer, 16 B.A.D.

Declassified E.O. 12356 Section 3.3/NND No. 785016

HEADQUARTERS A.C., Ancona.
A.M.G.
PESARO PROVINCE
ABRUZZI-MARCHE REGION
C M F

Subject: Civilian Offences. *Ref.:* ACC/11/12

To: HQ A.C. Legal Sub-Commission. *Date:* 4 Oct 45

From: A.C. Ancona.

The attached copy letter from HQ 81 Area is forwarded for your information please.

H.M. Walton Capt.

7 OCT 1945

H.M. WALTON, Capt. Gen.List
A/Liaison Officer
Ancona.

LEGAL SUB COMMISSION	
CLO	
DCLO	
Chief Counsel	
CIO	1 1 2 4
Italian Section	1 ← Info
CLERKS	1
6 OCT 1945	

Declassified E.O. 12356 Section 3.3/NND No. 785016

1 COPY.

CONFIDENTIAL.
Ref: 8.52/A
2 Oct 45.

90A

Subject: Civilian Offences.
To: The Prefect; Ancona.

1. My attention has been drawn to eleven cases against Italian nationals which were submitted by British Military Police to Italian Courts and tried by the latter on 10 Sep 45.

2. The offences with which these persons were charged included, (a) trespassing on British military property, (b) attempting to steal, and (c) being in improper possession of British military property.

3. In order to check this type of offence, it is necessary that exemplary sentences be inflicted on persons found guilty. In view of the large quantity of British military property in the area, and the many opportunities for pilfering, it is evident that normal sentences will NOT act as a deterrent.

4. In the eleven cases under review, two were "dismissed" while the remainder were awarded sentences of imprisonment (all suspended) and fines varying between 1500 and 10,000 lire.

5. The difficulties with regard to prison accommodation are appreciated but I submit that the fines imposed, bearing in mind the total suspension of imprisonment sentences, were in these cases totally inadequate and in no way corresponded to the gravity of the offences.

6. I should be grateful therefore to have an early assurance from you that in future such cases, if found guilty, will receive punishment severe enough to discourage this type of offence against British military property.

(signed) C.S.C. F LEGGATT
Brig.
Comd.
61 Area.

FFM/CEP
Copy to : 3 District
Liaison Officer Legal Office, A.M.G., Ancona
A.P.M.

1 143

DOWN GRADED TO UNCLASSIFIED

Col. Inf.
Chief Judicial Officer,
for Chief Civil Affairs Officer.

Declassified E.O. 12356 Section 3.3/NND No. 785016

49/11/3 File

88A

HEADQUARTERS
LIVORNO ZONE
ALLIED MILITARY GOVERNMENT

8 September 1945

File: L.O. 1501/3/25.

Subject: Allied interest cases in Pistoia Province.

To: Chief Legal Advisor, Allied Commission, APO 394. ✓

1. Information reached this office that the Italian Courts in Pistoia Province were slow in the trial of persons arrested for interference with allied property. Lt. Eric Feldman of the Legal Office, Livorno Zone has very ably investigated the situation and this report is made of what he has done.

2. Through personal contacts with the proper judicial persons, and by looking over the records and the courts themselves, Lt. Feldman found that for various reasons the Pistoia Courts were slow in trying cases affecting allied interest.

a. In the first place there is a shortage of judicial personel. The Procuratore del Regno has no assistant as he generally has. The Tribunale has only five judges, three of whom must sit as judges in all cases tried by the Tribunale. Two of these have until ten days ago been on a 30 day leave. For a while there was no President. There is still no seperate Giudice Istruttore as there should be and this job in pre-trial investigation in any case pending trial must be handled by one of the five judges who then is ineligible to sit as one of the trial judges.

b. More important however is the fact that the majority of allied interest cases were for wrongful possession of allied property and the offenders were being charged with violation of para 648 of the Italian Penal Code. The trouble with using para 648 to cover these possession cases (and it was used even in cases of very small quantities of goods) was that cases under this para must be tried by the Tribunale instead of by the Pretore which ordinarily tries minor offenses. The Tribunale procedure is much more involved than that of the Pretore. For example it involves trial by 3 judges instead of 1 judge. Furthermore, before a case is tried before the Tribunale the accused's birth certificate and previous penal record, if any, must be obtained and it often takes months just to get these because the office in Pistoia which issues the penal certificates (Cancellario Giudiziario) doesn't exist and the document must be obtained from Rome. Then also a pre-trial investigation must be made by the Giudice Instruttore in all Tribunale cases .

12

3. Having found this situation to exist, Lt. Feldman got busy on a solution and found an excellent one. He went through the Italian Penal code and found that another section, para 712, could be used to cover possession of Allied property of less value than 10,000 lire, and that it had the particular advantage over para 648, which they had been using, in that a offense under this para is tried before the Pretore, utilizing its more speedy and less complicated procedure. Besides that, the proof required for conviction under this para is

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Declassified E.O. 12356 Section 3.3/NND No. 785016

much less than under para 64f.

Another solution proposed by Lt. Feldman was to have the Prefect of Pistoia Province outlaw possession of allied goods by Decree and then prosecute offenders under para 650 of the Italian Penal Code (disobeying any order issued by governmental authority).

4. The first solution was accepted by the Procuratore del Regno of Pistoia (without explanation of why they themselves did not find it) and as a result of its use many of the pending allied interest cases will be tried in the next few days by the Pretore. As to those cases to be tried by the Tribunale, Lt. Feldman had the Procuratore del Regno fix a definite date in the near future when each would be tried. The enclosed schedule lists the allied interest cases pending and the disposition which has been made for each one.

5. This office will keep a close contact with the Pistoia Procuratore del Regno and his courts to insure speedy action on cases of allied interest.

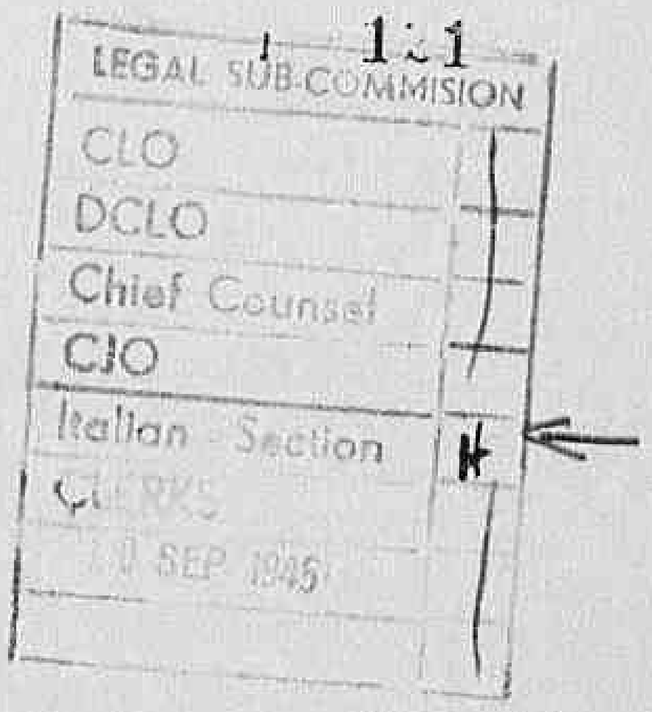
For the Zone Commissioner:

Arber Johnson per Capt Delbridge

ARBER JOHNSON
1st Lt., Infantry
Legal Officer.

Incl: Schedule of allied interest cases.

Copies to:
Commissioner, Livorno Zone.
AC. Liaison Officer P.B.S. (Col. L.J.Hensley).
Provost Marshal, Montecatini Redeployment Area.



888

PROCURA DEL RE

PISTOIA

LISTA DEI CASI IMPLICANTI INTERESSI ALLEATI

INVIATA DAL PROCURATORE DEL REGNO DI PISTOIA E

RIFERENTESI AL PERIODO 1° GIUGNO 1945 = 31

AGOSTO 1945.

E 12

Declassified E.O. 12356 Section 3.3/NND No. 785016

2056

Declassified E.O. 12356 Section 3.3/NND No. 785016

PROCURA DEL RE
PISTOIA

N° di ordine	Data di ricevuta del rapporto di arresto o denuncia.	Ente che ha inviato il rapporto di arresto o denuncia.	Cognome, nome, paternità della persona accusata	Indirizzo		Genere del re
1	13 giugno 1945	Polizia Allecta	BRINATI Guglielmo fu Augusto	Ponte Bugg	anese	Acquisto vestia
2	13 " "	" "	MONTI Attilio fu Angelo	Ponte Bugg	anese	idem
3	16 " "	" "	MANZI Luigi di Ferdinando	Monsumman		Acquisto benzina
4	20 " "	" "	MATTEONI Cesare di Eugenio	Chiesina	Uzzanese	Acquisto scarpe
5	25 " "	" "	BUONO Antonio di Salvatore	Montecatin	Terme	Possesso vestia
6	26 " "	" "	CARMIGNANI Egidio di Egisto	Pescia-V.	Marsala	" "
7	30 " "	" "	PAPINI Elena fu Serafino	Lamporecch	io	" "
8	30 " "	" "	NERI Maria di Lorenzo	Lamporecch	io	" "
9	28 " "	" "	MEONI Cesarina di Alessandro	Monsummano		Acquisto "
10	27 " "	" "	ARDINI Pierina di Ignoti	Pistoia-V.	Bonfanti	Possesso generi
11	21 " "	" "	SPINETTI Gino di Ettore	Montecatini	Terme	Possesso vestiai
12	25 " "	" "	LORENZI Carlo di Amaddio	Montecatini	V.Milazzo	" "
13	29 " "	" "	DESIDERI Rino di Primo	Montecatini	V.Carducci	" "
14	1° Luglio "	" "	LOMBARDI Fosco di Egidio	Monsummano		Acquisto "
15	1° " "	" "	MAESTRIPIERI Marinella di Ulderigo	Pistoia		Possesso "
16	3 " "	" "	ZUCCAGNI Aladino di Alberto	Monsummano		Possesso "
17	11 " "	" "	BELLANDI Antonio Italo fu Tito	Montecatini	V.Piana	" "
18	11 " "	" "	LUBRANI Aldo di Crazio	Montecatini	Valdinievole	" "
19	14 " "	CC.RR Tizzana	TEMPESTINI Giuseppe di Antonio	Tizzana		Acquisto sigare

2037

Declassified E.O. 12356 Section 3.3/NND No. 785016

PROCURA DEL RE
PISTOIA

ne ,paternità della ncoustita	Indirizzo		Genere del reato commesso	Autorità giudiziaria competente per il giudizio	Data del giudizio
olmo fu Augusto	Ponte Buggianese		Acquisto vestiario delle Forze AA.AA	Trib.Pistoia	21 - 9 - 1945
fu Angelo	Ponte Buggianese		idem idem idem	idem	21 + 9 + 1945
l Ferdinando	Monsummano		Acquisto benzina FF.AA.Alleate	idem	2 -10 - 1945
re di Eugenio	Chiesina	Uzzanese	Acquisto scarpe FF.AA Alleate	idem	2 -10 - 1945
di Salvatore	Montecatini	Terme	Possesso vestiario FF.AA Alleate	Pretore Livorn.	non si conosce
idio di Egisto	Pescia-V.	Marsala	" " " "	" Monsumm.	" " "
fu Serafino	Lamporecchio		" " " "	Trib.Pistoia	21 - 9 - 1945
Lorenzo	Lamporecchio		" " " "	" "	7 - 9 - 1945
e di Alessandro	Monsummano		Acquisto " " "	" "	14 - 9 - 1945
a di Ignoti	Pistoia-V.	Bonfanti	Possesso generi alimentari FF.AA All.	Pret.Pistoia	non si conosce
di Ettore	Montecatini	Terme	Possesso vestiario FF.AA Alleate	Pret.Monsumm.	" " "
di Amaddio	Montecatini	V.Milazzo	" " " "	"	" " "
di Primo	Montecatini	V.Carducci	" " " "	"	" " "
di Egidio	Monsummano		Acquisto " " "	"	" 19 "
ardinella di Ulderi-/go	Pistoia		Possesso " " "	"	" " "
no di Alberto	Monsummano		Possesso " " "	Trib.Pistoia	7 - 9 - 1945
io Italo fu Tito	Montecatini	V.Piana	" " " "	Pret.Monsumm.	non si conosce
i Orazio	Montecatini	Valdinievole	" " " "	" "	" " "
seppe di Antonio	Tizzana		Acquisto sigarette " "	Pret.Pistoia	" " "

Declassified E.O. 12356 Section 3.3/NND No. 785016

20	11 Luglio 1945	Polizia Allecta	PICCHINI Enrico di Carlo	Firenze	Acquisto vest
21	17 " "	" "	SANTINI Leonetto di Galliano	Larciano	"
22	11 " "	" "	DIOLAIUTI Alfredo fu Emilio	Monsummano	Possesso
23	17 " "	" "	PELAGATTI Adelmo fu Tullio	Campi Bisenzio	Acquisto gene
24	19 " "	" "	INNOCENTI Dante di Luigi	Tizzana	Acquisto veste
25	20 " "	" "	BETTINI Mario fu Giovanni	Pontedera	Possesso doll
26	19 " "	" "	GORI Napoli di Dino	Pistoia-Casone Giacomelli	Acquisto vest
27	20 " "	" "	BECHINI Rolando di Giovanni	Pieve a Nievole	"
28	20 " "	" "	SARTI Guido di Eugenio	Pieve a Nievole	"
29	18 " "	" "	ROMANI Nello di Eugenio	Pieve a Nievole	"
30	16 " "	" "	MASOTTI Lina di Quintilio	Pistoia-V.Lucchese	Possesso abbon
31	21 " "	" "	GIANNONI Dino di Gino	Pistoia-V.27 Aprile	Possesso vesti
32	21 " "	" "	PAGNI Nello fu Antonio	Pieve a Nievole	Acquisto "
33	22 " "	" "	MOSCHINI Celia	Montecatini Terme	Possesso "
34	22 " "	" "	GERINI Iva fu Luigi	Pieve a Nievole	" "
35	28 " "	" "	SIMONCINI Dante fu Giocondo	Montecatini Terme	Possesso ogget
36	30 " "	" "	PELLEGRINI Guido di Tacito	Montecatini T.-V.Panten	Acquisto vest
37	6 Agosto 1945	" "	PALADINI Enrico di Giuseppe	Montecatini Terme	Acquisto gener
38	6 " "	" "	CERAGIOLI Adon fu Guido	Montecatini Terme	Possesso vesti
39	4 " "	" "	PANCIOLI Marino fu Ottavio	Montecatini Terme	Acquisto sigar
40	4 " "	" "	PIERACCIOLI Cesare fu Gusmano	Terranova Bracciolini	Possesso vest

Declassified E.O. 12356 Section 3.3/NND No. 785016

df Carlo	Firenze	Acquisto vestiario FF.AA Alleate	Trib.Firenze	non si conosce
o di Gallicano	Larciano	" " " "	Pret.Monsumm.	" " "
do fu Emilio	Monsummano	Possesso " " "	Trib.Pistoia	" " "
o fu Tullio	Campi Lisenzio	Acquisto generi alimentari FF.AA	Pret.Monsumm.	" " "
di Luigi	Tizzana	Acquisto vestiario FF.AA Alleate	" "	" " "
u Giovanni	Pontedera	Possesso dollari americani	" "	" " "
Dino	Pistoia-Casone Giacopelli	Acquisto vestiario FF.AA Alleate	Trib.Pistoia	14 + 9 + 1945
o di Giovanni	Pieve a Nievole	" " " "	" "	2 -10 - 1945
Eugenio	Pieve a Nievole	" " " "	" "	2 -10 - 1945
Eugenio	Pieve a Nievole	" " " "	Pret.Monsumm.	non si conosce
Quintilio	Pistoia-V.Lucchese	Possesso abbondante materiale FF.AA	- in istruttoria -	
i Gino	Pistoia-V.27 Aprile	Possesso vestiario FF.AA Alleate	Pret.Pistoia	non si conosce
Antonio	Pieve a Nievole	Acquisto " " "	Trib.Pistoia	2 - 10 - 1945
	Montecatini Terme	Possesso " " "	Pret.Monsumm.	non si conos
uigi	Pieve a Nievole	" " " "	Trib.Pistoia	2 - 10 - 1945
fu Giocondo	Montecatini Terme	Possesso oggetti vari FF.AA Alleate	" "	14 - 9 - 1945
o di Tacito	Montecatini T.-V.Panten	Acquisto vestiario " "	Pret.Monsumm.	non si conosce
di Giuseppe	Montecatini Terme	Acquisto generi Alimentari FF.AA	" "	" " "
fu Guido	Montecatini Terme	Possesso vestiario FF.AA Alleate	" "	" " "
fu Ottavio	Montecatini Terme	Acquisto sigarette " "	" "	" " "
are fu Cusmano	Terranova Bracciolini	Possesso vestiario " "	" "	" " "

Declassified E.O. 12356 Section 3.3/NND No. 785016

41	7 Agosto 1945	Polizia Alleata	CIANTELLI Libero fu Quintilio	Pistoia
42	7 " "	" "	CARLI Lando di Lebindo	Capannori
43	15 " "	" "	MARTINI Sublime fu Pilade	Pistoia
44	15 " "	" "	SARTINI Piero di Giuseppe	Firenze
45	16 " "	" "	BRIZZI Lia ed altre due	Montecatini
46	20 " "	" "	TRAVERSARI Quintilio di Filadel.	Monsummano
47	20 " "	" "	CIPOLLINI Duilio di Attilio	Montecatini
48	27 Luglio 1945	" "	BALDI Alberto di Flavio	Tizzana
49	27 " "	" "	BRIZZI Arriguccio di Guglielmo	Montecatini
50	28 " "	" "	BARTOLI Libio fu Pietro	Pistoia
51	29 Giugno 1945	" "	FELICIANI Oramio di Gaetano	Monsummano
52	23 Agosto 1945	" "	LEUCCI Eugenio di Leone	Montecatini

Declassified E.O. 12356 Section 3.3/NND No. 785016

DEL RE
IO I A

	Genere del reato commesso	Autorità giudiziaria competente per il giudizio	Data del giudizio
V. Gora (Lucca)	Acquisto zucchero e farina FF.AA ALL.	Pret.Pistoia	non si conosce
	Possesso vestiario FF.AA Alleate	Trib.Lucca	" " "
	" merci FF.AA Alleate	Tenuto in sospeso seguito lettera Polizia Alleata Pistoia del 21 Agosto 1945 che chiede non procedersi per eccessiva vecchiaia dell'imputato.	
V.Fiorent. Terme	Possesso vestiario FF.AA Alleato	Trib.Firenze	non si conosce
	Furto di sigarette " "	In istruttoria	
	Furto oggetti vari e gomme FF.AA All.	In istruttoria	
Terme	Acquisto vestiario e cibi FF.AA All.	Pret.Monsumm.	non si conosce
	" " " " " "	" "	" " "
Terme	" " " " " "	" "	" " "
V.Vitoni	Acquisto scarpe " " " "	" "	" " "
	Acquisto vestiaro " " "	" "	" " "
	Possesso " " " "	" In	istruttoria "

Pistoia 31 Agosto 1945

IL PROCURATORE DEL REGNO

fto. ?

(timbro)

Declassified E.O. 12356 Section 3.3/NND No. 785016

4 Civ/3

Regal 5/c
87A

HEAD QUARTERS
ALLIED MILITARY GOVERNMENT
ANCONA PROVINCE

Subject: Trial by Italian Courts of offences against Allied Personnel and Property.

To: HQ 61 Area.

From: A.C. Ancona.

Ref: ANC/11/23

Date: 22 Aug 45. Ancona.

LEGAL OFFICE

1. Detailed instructions were issued for the trial of offences against Allied personnel and property, stressing the necessity for using summary procedure whenever possible, and returns of decided cases were asked for on the 20 Aug.

2. Despite reminders, the only return received has been from the Tribunale of Ancona. This is the principal local court, and it has tried only 3 cases involving 11 accused during the period. All these are old cases dating back to 11 May, so that it has taken 3 months to decide these cases. Moreover, all were given suspended sentences, and the Legal Officer has had to instruct the Procuratore Generale to file an appeal against the order of suspension in one case where eight accused were charged with the theft of 600 kilos of Margarine. The decision of the appeal is likely to take a considerable time.

3. Since the transfer to the Italian Government on 4 Aug 54 cases have been reported by the CMP.(up to date).
Up to the 18 Aug the u/m cases have been dealt with as follows:
11 warned and set at liberty by the Questore as being petty offender.
11 have been released on bail; 118
13 were reported against and not arrested;
3 reports said not to have been received.

The net result is that not one of these cases has been decided during the period under review.

4. It should be explained that the summary procedure can only be used where the accused has been arrested and kept in custody with-

Declassified E.O. 12356 Section 3.3/NND No. 785016

out being released on bail. Further, proceedings must be started within 5 days of arrest. It has not been possible to use this procedure owing to the Questore's action which was of course dictated by the absence of jail accommodation, a fact which is well known to you. Orders have now been issued to him not to release on bail, (which is really the function of the Procuratore del Regno) but the problem of accommodating these undertrials still remains.

5. To sum up, it is only possible to use the summary procedure where the accused is kept in custody till trial which must take place within 5 days of arrest. Where summary procedure cannot be used the normal procedure applies, and this invariably involves a delay of anything between one month and three months or more.

Owing to local conditions it will probably only be possible to use the summary procedure in a limited number of cases, and the rest must be dealt with by the normal procedure.

To keep the delay as low as possible I am of opinion that a Legal Liaison Officer should be retained here for so long as the port remains wholly or partly under Military control.

Of course, if a special A.M.G. court could be set up temporarily to deal with these cases, this would solve the difficulty, but I am informed that this is contrary to the policy laid down for the transfer of territory to the Italian Government.

O.J. Maunder. Lt Col R.A.

Copy:to: HQ.A.C.
Legal Sub Commission

O.J. MAUNDER, LT.Col.R.A.
A.C. Liaison Officer,
Ancona Commune.

DCtO
Chief Counsel
CJO
Italian Section
26 AUG 1945

none available

2064

Declassified E.O. 12356 Section 3.3/NND No. 785016

86A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4011/3/L. /mt.

26 July 1945.

SUBJECT : Offences against Allied Interests - Circulars of the Ministry.

TO : Local Commissioner (Attn: SIO), ANCONA Commune.

1. In compliance with your request by telephone enclosed herewith are 6 Ministerial circulars on the above subject.

2. Unfortunately not more than one copy of each circular was found in the files of the Ministry.

By command of Rear Admiral STONE:

117

G. C. HAMMAPORD,
Lt. Col.,
Officer i/c Italian Branch,
for Chief Legal Advisor.

Incls. 6

Declassified E.O. 12356 Section 3.3/NND No. 785016

fm

Ministero di Grazia e Giustizia
DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE DELLA STATISTICA E DEL CASELLARIO

Ufficio I° A.P.
Prot. N° 131.122.670/45

4011/3 ✓ Roma, 12 Giugno 1945 A. +++

8571 Mod.40

On. Commissione Alleata
Sottocommissione Legale
R O M A

Risposta al f. del 26.3.945
Div. Num. AC/4011/3/L.

OGGETTO: Atti di cause smarriti concernenti reati i pregiudizio di interessi Alleati.

77A

e per conoscenza:
All'UFFICIO DI COLLEGAMENTO
GABINETTO

Con riferimento al foglio sopra distinto, si trasmette un elenco dei procedimenti penali concernenti reati in pregiudizio di interessi Alleati, ritenuti smarriti da codesta On.Sottocommissione, con la indicazione della posizione di ciascun procedimento.

Nell'elenco, che è stato rimesso a questo Ministero dal Procuratore Generale presso la Corte di Appello di Roma e che ripete fedelmente quello inviato da codesta On.Sottocommissione, non figurano indicate le posizioni di 30 sui 215 nominativi segnalati.

Per questi ultimi 30, dei quali non vi è traccia nel Registro Generale della locale Procura, saranno esperite ulteriori diligenti indagini dirette anche ad accertare se i relativi verbali siano stati effettivamente trasmessi e siano materialmente pervenuti alla Procura di Roma.

1 1 G

pel M I N I S T R O
(A.Spallanzani)

4 Luglio 1945

2066

Declassified E.O. 12356 Section 3.3/NND No. 785016

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Ministero di Grazia e Giustizia

DIREZIONE GENERALE DEGLI AFFARI PENALI
DELLE GRAZIE DELLA STATISTICA E DEL CASELLARIO

Roma, 28 maggio 1944

A S.E. IL PROCURATORE GENERALE presso
la Corte d'Appello di NAPOLI
AL MINISTERO DELL'INTERNO - Direzione Generale P.S. ROMA
AL COMANDO GENERALE DELL'ARMA DEI
REALI CARABINIERI ROMA

Ufficio I° A.P.
Prot. N. 131.229.1071

Risposta al f.to del
Div. Sez. N.

OGGETTO Furti continuati di benzina dall'acquedotto Roma-Napoli nei territori di Napoli, Capua e Santa Maria C.V., in danno dell'Amministrazione Militare Alleata.

e per conoscenza:
ALLA COMMISSIONE ALLEATA - Sottocommissione Legale ROMA
ALL'UFFICIO DI COLLEGAMENTO
Gabinetto SEDE

URGENTE

Il Comando delle Forze Alleate in Italia ha segnalato la frequenza dei furti di cui in oggetto e il danno che ne deriva all'efficienza degli organismi militari alleati, giustamente insistendo affinchè sia intensificata congruamente l'attività preventiva dei competenti organi di polizia, e perchè la repressione, ad opera delle autorità giudiziarie, riesca ispirata ai criteri di rapidità e di severità, che le imponenti esigenze di carattere militare tuttora reclamano.

Si pregano, pertanto, gli uffici e i Comandi, cui la presente segnalazione è diretta, di voler adottare d'urgenza i provvedimenti opportuni, comunicandone il testo a questo Ministero per le necessarie assicurazioni al Comando Alleato.

115

CLO
DCLO
Chief Counsel
CJO
Italian Section
CL RKS:
31 MAY 1944

pel MINISTRO
(A. Spellmanni)

Declassified E.O. 12356 Section 3.3/NND No. 785016

4011/3 7C.83A

TO : HQ. AC. (For attn. of legal Sub- Com) a4.

FROM : HQ. AMG. UMBRIA-MARCHE REGION

SUBJECT : Trial of cases affecting Allied Interests in Umbria and Marche

REF : R5/511/12/AC

DATE : 7 April 1945. MAY

Herewith copy of letter leg/AMG/2 dated 5 May 45, issued by PLO Perugia to the Italian Authorities for your information. Similar instructions have been or will be issued in respect of the Marche Provinces. This will tie up the arrangements for dealing with such cases after the hand-over.

FOR THE REGIONAL COMMISSIONER,

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

HEADQUARTERS
9 MAY 1945
CIO
Deputy
Chief Counsel
CIO
Italian Section
CLERKS
10 MAY 1945

/hl.

1 25/B.

1 114

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
UMBRIA MARCHE REGION
PERUGIA PROVINCE

Perugia, May 5th, 1945.

File : LEG/AMG/2

Subject : Trial of cases affecting Allied Interests.

To : H.E. THE FIRST PRESIDENT, COURT OF APPEAL = PERUGIA
H.E. THE PROCURATORE GENERALE COURT OF APPEAL = PERUGIA
PRESIDENT OF TRIBUNALE =PERUGIA
" " TERNI
" " SPOLETO
" " ORVIETO
PROCURATORE DEL REGNO= PERUGIA
" " SPOLETO
" " TERNI
" " ORVIETO
COMANDO GRUPPO CC.RR. = PERUGIA
" " TERNI
QUESTORE = PERUGIA
" = TERNI

(1) As from the date of this letter, cases which have previously been tried by Allied Military Courts in the Provinces of PERUGIA and TERNI, will be tried by the Italian Courts, and the A.M. Courts will close.

(2) Under agreements made with the Italian Government the Allied Authorities retain the right to direct that any particular case be tried by an A.M. Court even when territory has been restored to the Italian Government. This right is only exercised in the most exceptional circumstances.

(3) In order to implement the above, Allied police agencies are being requested to hand over all persons arrested or charged by them, together with written statemen ts, to RR.CC. or Questura, with request that such persons be denounced in the normal way to the appropriate Italian Judicial authority. It is requested that Comandi Gruppi RR.CC. and Questori will issue the necessary instructions to their personnel with respect to this.

(4) Further CC.RR. and Questure should not denounce any further cases to the A.M. Public Prosecutor, but should denounce all cases to the appropriate Italian judicial authrority. May necessary instruction be issued on this point also.

(5) Tribunali and Procure are asked for their fullest co-operation in securing the prompt and effective disposal of cases affecting Allied interests. +No definition can be given of such cases, but in general they are cases of theft or unlawful possession of Allied property and assaults on troops. The bulk of these cases are of unlawful possession, a charge which Italian Courts in territory already returned to the Italian Government have normelly dealt with under Art.648 and 712 Italian Penal Code. There are also anumber of small charges of permit and curfew violations outstanding which it is suggested might be disposed of under Art.650 Penal Code. It is suggested that a circular by Procuratori del Regno to Pretori within their areas would be of great assistance.

(6) As already mentioned verbally to several Magistrates, H.E. the Minister of Pardon and Justice by circular dated from Salerno on March 8th,1944 to all Procuratori del Regno directed that cases affecting Allied interests be given abso-

Declassified E.O. 12356 Section 3.3/NND No. 785016

Subject : Trial of cases affecting Allied Interests.

To : H.E. THE FIRST PRESIDENT, COURT OF APPEAL = PERUGIA
H.E. THE PROCURATORE GENERALE COURT OF APPEAL = PERUGIA
PRESIDENT OF TRIBUNALE = PERUGIA
" " TERNI
" " SPOLETO
" " ORVIETO
PROCURATORE DEL REGNO = PERUGIA
" " SPOLETO
" " TERNI
" " ORVIETO
COMANDO GRUPPO CC.RR. = PERUGIA
" " TERNI
QUESTORE = PERUGIA
" = TERNI

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(6) As already mentioned verbally to several Magistrates, H.E. the Minister of Pardon and Justice by circular dated from Salerno of March 8th, 1944 to all Procuratori del Regno directed that cases affecting Allied interests be given absolute priority both during istruttoria and in the lists for trial. H.E. further directed that in such cases, where a discretion exists with respect to provisional liberty, such liberty be only given in most exceptional circumstances. As the Allied Authorities attach great importance to these cases, it would be much appreciated

.../2.

Declassified E.O. 12356 Section 3.3/NND No. 785016

if instructions could be given to all concerned to comply with the provisions of the circular in question.

S/ [illegible]

t/ J.A. BOYD-CARPENTER, Major
PROVINCIAL LEGAL OFFICER
PERUGIA AND TERNI PROVINCES

Copy to: RLO, UMBRIA-MARCHE REGION
PPSO, PERUGIA PROVINCE.

Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

4011/3

REGNO

PROCURA GENERALE MILITARE DEL ~~RE~~ PRESSO IL TRIBUNALE SUPREMO MILITARE

82A

N. 454 Prot. RP Roma, li 7 maggio 1945

Risposta a nota del N. Alleg.

Oggetto: Applicazione dell'art.15 C.P.M.G.

ALLA COMMISSIONE ALLEATA
Sotto Commissione Legale
= ROMA =

79A 81A 68A/c 4143

I) Riferendomi alle lettere AC/4143 in data 16 aprile, 26 aprile, 5 maggio 1945, sono lieto di informare codesta Sotto Commissione che il Tribunale Supremo Militare all'udienza del 3 c.m. nel procedimento penale contro MORELLI Antonio ed altri, ha accolto la tesi di questa Procura Generale (sostenuta dal sottoscritto) sull'applicabilità dell'art.15 C.P.M.G.

II) Si ha pertanto ragione di ritenere che la eccezione di inapplicabilità dell'art.15 nei procedimenti per reati a danno delle Forze Armate Alleate, se verrà ancora

./.

Declassified E.O. 12356 Section 3.3/NND No. 785016

sollevata dai difensori come motivo di annullamento di sentenza di Tribunale militare, sarà costantemente respinta dal Tribunale Supremo Militare.

IL SOST.PROCURATORE GENERALE
MILITARE
(M. Berutti)

M. Berutti

U.S.A.
Chief Counsel
10 MAY 1945

2013

Declassified E.O. 12356 Section 3.3/NND No. 785016

To CIA.

CIA Issue

This decision so important. Point at issue being that the adversary argued that there was no reciprocity on which to ~~Ppt~~ain the application of Art 15. CP m.q.

Procuratore Generale Militare states that in future the Supreme Military Tribunal will reject all motions of nullity on such grounds.

ART.

Thank you - Enf

Avg.

2074

Declassified E.O. 12356 Section 3.3/NND No. 785016

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

81A.

AC/1443/L. GGH/pa.
26 Apr 45.

SUBJECT : Application of Art.15 C.P.M.G.

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

1. With reference to previous correspondence and conversations on the above subject, Your Excellency will find enclosed duplicates of the lists of sentences passed by Allied Courts Martial on Allied soldiers for offences against Italian property and personnel. These lists have been from time to time forwarded to the Minister of Justice in pursuant of the agreement on reciprocal treatment of which Your Excellency is aware.

2. You will notice that, for security reasons, the names of the sentenced persons do not appear on the list. They are however in the possession of this Sub-Commission and should Your Excellency be interested in any special case such name could be produced.

3. It is hoped that the communication of these lists will serve Your Excellency's purpose. However, should more recent reports be required, this Sub-Commission has already requested Allied MAG to supply ~~this~~ information and will be in a position to communicate it to you in a fortnight or so.

G. G. HANNAFORD,
Lt.Colonel,
Officer i/c Italian Branch,
for Chief Legal Advisor.

Incls.

Copy to AC/4011/3/L

109

4011/3

(80A.)

Roma, addì 22 aprile 1945

PROCURA GENERALE MILITARE

DEL ~~LEXIMPERATORE~~ REGNO

PRESSO IL

TRIBUNALE SUPREMO MILITARE

ALLA COMMISSIONE ALLEATA

Sottocommissione Legale

= ROMA =

N. 1257 P.G. risp. a nota del 16 aprile 1945

ETAMPERIA REALE DI ROMA

79A

ALLEGATI N.

OGGETTO: Applicazione dell'art.15 C.P.M.G.

Ringrazio codesta Sotto Commissione dei chiarimenti forni= timi sull'argomento indicato in oggetto e delle copie di documen ti, concernenti l'argomento stesso.

Questo Generale Ufficio è formamente convinto che corrispon da ad esattezza giuridica l'applicazione delle norme contenute nell'art.15 C.P.M.G., per quanto concerne i reati commessi da italiani a danno delle Forze Armate Alleate, o dei militari che vi appartengono. Tale punto di vista sarà sostenuto da parte del rappresentante del pubblico ministero avanti al Tribunale Supre= mo, in occasione delle discussioni dei primi ricorsi investenti la delicata ed importante questione.

Questo Ufficio ritiene che non possa mettersi in dubbio l'equiparazione, agli effetti del detto art.15, dello Stato co= belligerante allo Stato associato nella guerra.

La soluzione della questione sulla reciprocità di tutela penale sarà avvantaggiata dalla conoscenza delle intese intercor se a Salerno fra le Autorità alleate e quelle italiane. Penso però che, per controbattere decisamente le obbiezioni dei ricor renti, riuscirebbe molto utile il possesso di una dichiarazione, di cui poter far uso in udienza, proveniente da codesta Sotto Commissione, dalla quale apparisse la sussistenza di una delle seguenti circostanze:

106

Indicare sempre nella risposta, la data e i numeri della presente.

Declassified E.O. 12356 Section 3.3/NND No. 785016

DEL ~~REGNO~~ REGNO
PRESSO IL
TRIBUNALE SUPREMO MILITARE

ALLA COMMISSIONE ALLEATA
Sottocommissione Legale
= ROMA =

N. 1257 P.G.m. risp. a nota del 16 aprile 1945

STAMPERIA REALE DI ROMA

ALLEGATI N.

79A

OGGETTO: Applicazione dell'art.15 C.P.M.G.

—

Ringrazio codesta Sotto Commissione dei chiarimenti forni=timi sull'argomento indicato in oggetto e delle copie di documenti, concernenti l'argomento stesso.

Questo Generale Ufficio è formamente convinto che corrisponda ad esattezza giuridica l'applicazione delle norme contenute nell'art.15 C.P.M.G., per quanto concerne i reati commessi da italiani a danno delle Forze Armate Alleate, o dei militari che vi appartengono. Tale punto di vista sarà sostenuto da parte del rappresentante del pubblico ministero avanti al Tribunale Supremo, in occasione delle discussioni dei primi ricorsi investenti la delicata ed importante questione.

Questo Ufficio ritiene che non possa mettersi in dubbio l'equiparazione, agli effetti del detto art.15, dello Stato co=belligerante allo Stato associato nella guerra.

La soluzione della questione sulla reciprocità di tutela penale sarà avvantaggiata dalla conoscenza delle intese intercorse a Salerno fra le Autorità alleate e quelle italiane. Penso però che, per controbattere decisamente le obbiezioni dei ricorrenti, riuscirebbe molto utile il possesso di una dichiarazione, di cui poter far uso in udienza, proveniente da codesta Sotto Commissione, dalla quale apparisse la sussistenza di una delle seguenti circostanze:

1°) L'esistenza di una convenzione fra le Autorità Alleate e quelle italiane per la parte di tutela penale (ai sensi del=

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22 APR 1945

Indicare sempre nella risposta, la data e i numeri della presente.

Declassified E.O. 12356 Section 3.3/NND No. 785016

l'art.15 C.P.M.G.).

2°) Ovvero l'esistenza nelle leggi militari di guerra delle Nazioni alleate di una norma analoga a quella dell'art.15 C. P.M.G.

3°) Ovvero ancora che dai Tribunali delle Forze Armate Alleate viene fatta applicazione delle sanzioni punitive stabilite per reati commessi a danno di militari o delle forze armate degli Stati alleati anche a reati commessi a danno dei militari o delle forze armate dello Stato italiano.

Se codesta Sotto Commissione ritenesse di potermi inviare, sia pure nella forma più succinta, una tale dichiarazione in forma ufficiale, credo che le medesime costituirebbero un prezioso fondamento per la decisione di massima del Tribunale Supremo.

IL PROCURATORE GENERALE MILITARE
(U. Borsari)

U. Borsari

Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

Int. & file

79A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4011/3/L.

GGH/mt
16 April 1945.

SUBJECT : Application of Art. 15 of C.P.M.G. - Counsel's appeal to Tribunale Supremo Militare of decision of Military Tribunale of Bari against MORELLI and others.

TO : Procuratore Generale Militare,
Via degli Acquasparta n. 2 =ROME.

1. Following conversation of 13 inst (Col. Berutti - Lt. Col. Hannaford) and in reply to Your Excellency's letter No. 450 Prot. RP of 14 April 45, a decision of the Court of Cassation of Rome on the application of Art. 15 of C.P.M.G. to offences committed by Italian citizens against Allied interests is enclosed.

2. As Your Excellency will see the Supreme Court in the case State against MELE and others has held that Italian Military Courts have jurisdiction over offences committed to the detriment of Allied Administration and that Art. 15 of C.P.M.G. is applicable.

The decision confirms the point of view of H.E. Casati then Minister of Justice which was set out in his circular of 8 March 1944 to all "Procuratori Generali", a copy of which is also enclosed. General Traina, then P.G.M. expressed the same opinion on 6 May 44 (circular attached).

3. In so far as the questions of reciprocity is concerned, this point was also raised at the time by H.E. Casati and discussed at a meeting held in Salerno on 6 Mar 44 where a representative of the Tribunale Supremo Militare, Generale Mercalli was present.

4. As a result of this conference it was agreed that lists of sentences passed by Courts Martial on Allied soldiers for offences against the Italian Military Administration or members thereof would be communicated to the Italian Military Authorities, at their request (ACC/4011/L. of 20 Mar 44, copy attached refers).

Such lists have been duly forwarded to the competent Italian Authorities from time to time.

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Declassified E.O. 12356 Section 3.3/NND No. 785016

5. In view of the above it is hoped that Your Excellency will agree that the conditions necessary for the application of the provisions of Art. 15 C.P.M.G. to offenders against Allied Administration or members thereof have been duly complied with.

G. G. HANNAFORD,
Lt. Col.,
Officer i/c Italian Branch,
for Chief Legal Advisor.

4 Incls:
Incl 1 - copy letter, Min of Justice dtd 8 Mar 44;
Incl 2 - copy letter, Legal S/C dtd 20 Mar 44;
Incl 3 - copy letter, Procura Gen. Mil dtd 6 May 44;
Incl 4 - copy letter, Min of Justice dtd 6 Mar 44.

4011/3

78A

Roma, addì 14 aprile 1945

PROCURA GENERALE MILITARE

DEL ~~RE IMPERATORE~~ REGNO

PRESSO IL

TRIBUNALE SUPREMO MILITARE

N. 450 prot. RP risp.

STAMPERIA REALE DI ROMA

ALLEGATI N.

URGENTE

RISERVATO

ALLA COMMISSIONE ALLEATA
Sotto Commissione Legale

= ROMA =

OGGETTO: Applicazione dell'art.15 C.P.M.G. nei procedimenti per reati in danno delle Forze Armate Alleate.

I) Nei procedimenti penali contro GINELLI Pietro ed altri e contro MORELLI Antonio ed altri, tutti imputati di furto in danno delle Forze Armate degli Alleati, il Tribunale Militare Territoriale di Guerra di Bari ha ritenuto applicabili - a norma dell'art.15 C.P.M.G. - le disposizioni della legge penale militare italiana di guerra ed ha inflitto ai colpevoli le maggiori pene previste da questa legge per il furto commesso in tempo di guerra in danno dell'Amministrazione militare italiana (art.230 secondo comma, 231 C.P.M.P., 47 C.P.M.G.) in luogo delle pene previste dalla legge penale comune.

II) Contro le sentenze pronunciate dal Tribunale militare di Bari in questo procedimento i difensori hanno fatto ricorso per annullamento al Tribunale Supremo Militare sostenendo che non è applicabile in questo caso l'art.105 C.P.M.G.:

a) perchè l'Italia come paese occupato in regime di armistizio, nonostante il riconoscimento della cobelligeranza, non può considerarsi nè "alleata" nè "associata nella guerra" degli Alleati;

b) perchè, anche ammesso che l'Italia possa considerarsi associata nella guerra degli Alleati, mancherebbe quella

Indicare sempre nella risposta, la data e i numeri della presente.

Declassified E.O. 12356 Section 3.3/NND No. 785016

DEL REGNO
PRESSO IL
TRIBUNALE SUPREMO MILITARE

N. 450 prot. RP risp.

STAMPERIA REALE DI ROMA

ALLEGATI N.

URGENTE

RISERVATO

ALLA COMMISSIONE ALLEATA
Sotto Commissione Legale

= ROMA =

OGGETTO: Applicazione dell'art.15 C.P.M.G. nei procedimenti per reati in danno delle Forze Armate Alleate.

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II) Contro le sentenze pronunciate dal Tribunale militare di Bari in questo procedimento i difensori hanno fatto ricorso per annullamento al Tribunale Supremo Militare sostenendo che non è applicabile in questo caso l'art.105 C.P.M.G.:

a) perchè l'Italia come paese occupato in regime di armistizio, nonostante il riconoscimento della cobelligeranza, non può considerarsi nè "alleata" nè "associata nella guerra" degli Alleati;

b) perchè, anche ammesso che l'Italia possa considerarsi associata nella guerra degli Alleati, mancherebbe quella condizione di "parità di tutela ai militari italiani e alle forze armate dello stato italiano" alla quale è subordinata l'applicazione dell'art.15 C.P.M.Guerra per reati commessi

./.

Indicare sempre nella risposta, la data e i numeri della presente.

Declassified E.O. 12356 Section 3.3/NND No. 785016

a danno delle Forze Armate di Stati alleati o associati nella guerra.

III) Si gradirebbe conoscere quale sia in proposito il pensiero della Commissione Alleata e particolarmente quali eventuali disposizioni siano state emanate o quali accordi siano stati presi per rendere praticamente possibile alle Autorità giudiziarie militari italiane l'applicazione dell'art.15 C.P.M.G., affinchè questo Generale Ufficio possa averne norma nella discussione dei ricorsi sopra ricordati presso il Tribunale Supremo Militare di Guerra.

IL PROCURATORE GENERALE MILITARE

(U. Borsari)

U. Borsari

14 APR 1945

Declassified E.O. 12356 Section 3.3/NND No. 785016

UDIENZA IN CAMERA DI CONSIGLIO DEL DÌ I2 DICEMBRE I944

N°23
VOL SENTENZA
REGISTRO GENERALE
N°2311

IN NOME DI S.A.R. UMBERTO DI SAVOIA
PRINCIPE DI PIEMONTE
LUOGOTENENTE GENERALE DEL REGNO
--------oOo--------

LA CORTE DI CASSAZIONE DEL REGNO

SEZIONI UNITE PENALI

Riunita in Camera di Consiglio
Ha pronunziato la seguente

S E N T E N Z A

Nel procedimento penale

C O N T R O

1) MELE Pietro fu Nicola
2) BELLINO Matteo fu Biagio
3) CAPORUSSO Vito di Antonio
4) ABBRESCIA Giovanni di Onofrio
5) CHIARONE Nicola di ignoto
6) PANTALEO Francesco fu Leonardo
7) MELE Vincenzo fu Nicola

I M P U T A T I

di concorso in furto aggravato il 1°, 2, 3, 4,5,7.
di favoreggiamento reale il 6°

ed

In esito al conflitto di giurisdizione sorto tra l'autorità Giudiziaria

104

Declassified E.O. 12356 Section 3.3/NND No. 785016

VOL SENTENZA
REGISTRO GENERALE
N°2311

IN NOME DI S.A.R. UMBERTO DI SAVOIA
PRINCIPE DI PIEMONTE
LUOGOTENENTE GENERALE DEL REGNO
--------ooo--------

LA CORTE DI CASSAZIONE DEL REGNO

SEZIONI UNITE PENALI

Riunita in Camera di Consiglio
Ha pronunziato la seguente

S E N T E N Z A

Nel procedimento penale

C O N T R O

I) MELE Pietro fu Nicola
2) BELLINO Matteo fu Biagio
3) CAPORUSSO Vito di Antonio
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5) CHIARONE Nicola di ignoto
6) PANTALEO Francesco fu Leonardo
7) MELE Vincenzo fu Nicola

1 104

I M P U T A T I

di concorso in furto aggravato il 1; 2, 3, 4,5,7.
di favoreggiamento reale il 6°

ed

In esito al conflitto di giurisdizione sorto tra l'autorità Giudiziaria Militare e l'Autorità giudiziaria ordinaria.

Letta la requisitoria del Proc.Gen. presso questa Corte Suprema di Cassazione del seguente testuale tenore:

Declassified E.O. 12356 Section 3.3/NND No. 785016

"" Visti gli atti del procedimento contro:

a) Mele Pietro, Bellino Matteo, Abbrescia Giovanni ed altri tre, imputati di concorso in furto aggravato di Q. 60 di farina, commesso il 2I-3-944 nel Porto di Bari in danno dell'Amministrazione Militare Anglo-americana (Art.II0, II2,6I n.II, 624 n.5, 7 ed ult.cap.C.P.);

b) Caporusso Vito, imputato di favoreggiamento reale (art.379 C.P.);

c) il Bellino e l'Abbrescia, imputati anche (fol. 93 tergo) di falsità in atti (art.477 C.P.);

ritenuto che il Tribunale Militare Territoriale di Bari con sentenza I8-9-I944 ha declinato la sua competenza reputando che nessuno degli imputati si trovasse in rapporto di prestazione d'opera con l'Amministrazione militare Angloamericana, mentre il Procuratore del Regno della stessa città ha rifiutato anch'egli di prendere cognizione dei delitti connessi, sostenendo che gli imputati Bellino e Abbrescia prestavano servizio in luogo militare e a favore dell'Amministrazione militare stessa;

osserva che la posizione giuridica precisa del Bellino e del Abbrescia é stata oggetto di accertamento molto sommario ed anche indiretto, sicché é da attribuire a questa deficienza il caso di conflitto negativo di giurisdizione analogo a quelli preveduti dall'art.5I C.P.P.

Peraltro non sembra dubbio che il Bellino e l'Abbrescia erano impiegati al Consorzio agrario provinciale di Bari e svolgevano la loro attività nel posto, del quale pare che l'autorità militare anglo-americana avesse il pieno governo, e in un recinto nel quale la polizia militare inglese vigilava gli accessi; risulta inoltre dagli atti che l'amministrazione militare angloamericana, avvalendosi delle mansioni da essi esplicate nell'interesse del Consorzio, avesse loro attribuito anche funzioni di controllo nel proprio interesse (funzioni di checkers: fol.35 tergo)- all'Abbrescia in ordine alla numerazione dei sacchi caricati sui vagoni ferroviari (fol.68 e II2 tergo), al Bellino in ordine alla numerazione di quelli caricati sugli autocarri militari (fol.27); ed il Bellino risulta incaricato altresì di redigere alcune note di convoglio (un modulo di convoy note, scritto a stampa soltanto in lingua inglese e in atti a fol. I2I), le quali ve-

Declassified E.O. 12356 Section 3.3/NND No. 785016

di concorso in furto aggravato commesso nel Porto di Bari in danno dell'Amministrazione Militare Angloamericana (Art.IIO, II2,6I n.II, 624 n.5, 7 ed ult.cap.C.P.);

b) Caporusso Vito,imputato di favoreggiamento reale (art.379 C.P.);

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osserva che la posizione giuridica precisa del Bellino e del Abbrescia é stata oggetto di accertamento molto sommario ed anche indiretto, sicché é da attribuire a questa deficienza il caso di conflitto negativo di giurisdizione analogo a quelli preveduti dall'art.5I C.P.P.

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Declassified E.O. 12356 Section 3.3/NND No. 785016

cui uno trattenuto dall'ufficio militare emittente, uno da consegnare alla polizia militare inglese all'uscita dal recinto, uno da recapitare al destinatario della merce ed uno (parrebbe dalla deposizione Hearn a fol. II3) da rimettere al Consorzio agrario.

Orbene, in base a tali elementi riferiti al capo di imputazione come risulta formulato, sembra non si possa disconoscere che i due impiegati del Consorzio si siano avvalsi, per abbusarne a fine di delitto, delle occasioni, delle facoltà e dei mezzi inerenti all'esplicazione del compito che eseguivano per ragioni d'ufficio, all'interesse di un recinto riservato alle forze armate angloamericane per smistarvi merce scaricate dalle navi; né sembra si possa escludere che, di fatto almeno, un rapporto d'ufficio o di prestazione d'opera intercedesse fra essi e l'amministrazione militare stessa. Sotto questo aspetto, esattamente il Procuratore del Regno di Bari si richiama all'antica e costante giurisprudenza della Suprema Corte, secondo cui, per far luogo all'aggravante dell'art.6I n.11 C.P., nemmeno occorre un rapporto diretto fra il prestatore d'opera e il conduttore o l'assuntore immediato. Ma, anche a prescindere da tal relazione di ~~dipendenza~~ dipendenza, il maggior reato attribuito in epigrafe appartiene alla competenza del giudice militare (art.236 ult.disposiz. e 252 C.P.M.G.) poiché esso risulta commesso in tempo di guerra e in luogo militare da persone ivi addette per ragioni d'ufficio e impiego (art.264 C.P.M.G.) a danno delle forze armate di Stati associati nella guerra, che l'art.I5 C.P.M.G equipara alle forze armate dello Stato italiano agli effetti dell'applicazione della legge penale militare.

Pertanto, poiché non ricorrono elementi che giustifichino il rifiuto del Tribunale Militare a conoscere del delitto sopra indicato e tenuti presenti gli effetti del concorso (art.II0 e seg.) della connessione (art.49 ult.Capo C.P.P.) ;

102

Visto l'art.54 C.P.P. chiede che la Corte Ecc.ma, in Sezioni Unite, risolvendo il conflitto ed annullando la sentenza predetta del diciotto settembre I944, dichiari che la cognizione del procedimento a carico del Mele Pietro ed altri 6 appartiene al Tribunale Militare Territoriale di Bari ed ordini che gli atti vengano inviati al Tribunale stesso per l'ulteriore corso.

Declassified E.O. 12356 Section 3.3/NND No. 785016

all'uscita alla polizia militare inglese dal recinto, uno da recapitare al destinatario della merce ed uno (parrebbe dalla deposizione Hearn a fol. II3) da rimettere al Consorzio agrario.

Orbene, in base a tali elementi riferiti al capo di imputazione come risulta formulato, sembra non si possa disconoscere che i due impiegati del Consorzio si siano avvalsi, per abbusarne a fine di delitto, delle occasioni, delle facoltà e dei mezzi inerenti all'esplicazione del compito che eseguivano per ragioni d'ufficio, all'interesse di un recinto riservato alle forze armate angloamericane per smistarvi merce scaricate dalle navi; né sembra si possa escludere che, di fatto almeno, un rapporto d'ufficio o di prestazione d'opera intercedesse fra essi e l'amministrazione militare stessa. Sotto questo aspetto, esattamente il Procuratore del Regno di Bari si richiama all'antica e costante giurisprudenza della Suprema Corte, secondo cui, per far luogo all'aggravante dell'art.6I n.11 C.P., nemmeno occorre un rapporto diretto fra il prestatore d'opera e il conduttore o l'assuntore immediato. Ma, anche a prescindere da tal relazione di ~~dispensa~~ dipendenza, il maggior reato attribuito in epigrafe appartiene alla competenza del giudice militare (art.236 ult.disposiz. e 252 C.P.M.G.) poiché esso risulta commesso in tempo di guerra e in luogo militare da persone ivi addette per ragioni d'ufficio e impiego (art.264 C.P.M.G.) a danno delle forze armate di Stati associati nella guerra, che l'art.I5 C.P.M.G equipara alle forze armate dello Stato italiano agli effetti dell'applicazione della legge penale militare.

Pertanto, poiché non ricorrono elementi che giustifichino il rifiuto del Tribunale Militare a conoscere del delitto sopra indicato e tenuti presenti gli effetti del concorso (art.II0 e seg.) della confessione (art.49 ult.Capo C.P.P.) ;

102

Visto l'art.54 C.P.P. chiede che la Corte Ecc.ma, in Sezioni Unite, risolvendo il conflitto ed annullando la sentenza predetta del diciotto settembre I944, dichiari che la cognizione del procedimento a carico del Mele Pietro ed altri 6 appartiene al Tribunale Militare Territoriale di Bari ed ordini che gli atti vengano inviati al Tribunale stesso per l'ulteriore corso.

Roma 5 Novembre I944

Declassified E.O. 12356 Section 3.3/NND No. 785016

Ebner Sost.""

Esaminati gli atti del procedimento suddetto;

Udita in camera di Consiglio la relazione fatta dal Consi= gliere Trasimeni;

Adottando i motivi esposti nella requisitoria che precede;

Visti gli art.5I e 54 C.P.P.;

Risolvendo il conflitto ed annullando la sentenza I8 set= tembre I944, dichiara che la cognizione del procedimento a carico del Mele Pietro ed altri 6 appartiene al Tribunale Militare Territo= riale di Bari ed ordina gli atti vengano inviati al Tribunale stesso per l'ulteriore corso.

Così deciso in Camera di Consiglio in Roma, oggi I2-I2-I944

Firmati S.E ALOISI
" " MANGINI
GIULIANO
PILI
PROPERZI
PETRUZZI
PANNULLO
TOESCA
RUOCCO
GIOCOLI
BORRAGINE
STASI
TRASIMENI
RICCIARDELLI
MANCINI

1 101

Il CANCELLIERE DELLA S.U.
F/to Giuffrida

Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

File.

77A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4011/3/L. /mt.

26 March 1945.

SUBJECT : Lost records of cases involving offences against Allied interests.

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

1. It appears from a report of the Regional Legal Officer for the LAZIO-UMBRIA Region that of the total of cases involving offences against Allied interest transmitted by the said officer to the Procuratore del Regno of the Tribunals of Rome 215 cases could not be accounted for by the Italian courts.

2. The Regional Legal Officer holds the receipts signed by the Procuratore del Regno for records (arrest reports, "verbali" and denunciations) relating to the said 215 cases a list of which is attached herewith. Such records were reported as "missing". *

3. The disappearance of the records constitutes a cause of grave concern to the Allied authorities and this Sub-Commission would appreciate it if immediate steps could be taken for the recovery of the lost records.

G. C. HAGNAFORD,
Lt. Col.,
Officer i/c Italian Branch,
for Chief Legal Advisor.

Incl.

7 100

* See appendix to monthly report (February) of Legal Advisor's Dept (file 4043/4/c)

Declassified E.O. 12356 Section 3.3/NND No. 785016

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

76A

4011/3.

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

24 March 1945

L/1721

SUBJECT : Lost cases against Allied interest.

TO : Chief Legal Advisor, Hq. A.C.
Legal Sub-Commission, A.P.O. 394
(attention Officer i/c. Italian Branch).

74a

1. Reference your AC/4011/3/L, dated 21 March, 1945, to this Headquarters, a list of all subject cases was attached to February monthly report, Legal Division, Lazio-Umbria Region, a copy of which was forwarded to your Headquarters.

2. This Division holds written receipts for the papers (arrest reports, "verbali" and denunciations) signed by the Procuratore del Regno. Possibly the papers in the "lost" cases are in the Registry Office as part of the great mass of unregistered cases there.

For the Regional Commissioner.

SUB-COMMISSION
Chief Counsel
CIO
Italian
CLERK
25 MAR 1945

Sam B. Gilreath
SAM B. GILREATH
Major, A.U.S.
Regional Legal Officer,

SBG/FA.

99

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

Declassified E.O. 12356 Section 3.3/NND No. 785016

4011/3

75A

LEGAL 5/L

TO :- Procuratore del Regno,
Procura of LANCIANO.

FROM :- H.Q. ACC/AC., Abruzzi-Inrahe Region.

SUBJECT :- Lanciano Tribunale - Cases in which Allied Interests are involved.

REF :- R5/511/12/CH/A.C.

DATE :- 17 March 1945.

1. It is observed that for the offence of "ricettazione" (Art. 648 of the Penal Code) SCIASCIO Edoardo was fined L. 1,000 for receiving 30 packets of cigarettes, and CARAVAGGIO Nicola was sentenced to 3 months imprisonment and was fined L. 2,000 for receiving 49 litres of petrol. The prison sentence in the latter case was suspended, and no reason is given for this.

2. These sentences are most unsatisfactory, and are indeed a direct encouragement to civilians to deal on the black market in property of the Allied Forces.

3. In the first case the value of the cigarettes on the black market is in the neighbourhood of L. 3,000, and it is considered that 2 months imprisonment would have been a more reasonable sentence, or at any rate a fine of L. 5,000.

4. In the second case, in the absence of some explanation, it is not understood why this prison sentence should have been suspended. The Ministry of Justice has issued most definite instructions that prison sentences for offences against the Allied interests are not to be suspended save in the most exceptional cases.

HEADQUARTERS
23 MAR 19
A. C.

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

/el

Copies to:- Primo Presidente
H.Q. A.C. (For the attention of C.I.Sec.)

Judge

CLO
DCLO
Chief Counsel
CLO
Italian Section
CLERKS
23 MAR 1945

2093

Declassified E.O. 12356 Section 3.3/NND No. 785016

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

744

AC/4011/3/L.

GGH/pa.
21 March 45.

SUBJECT : Lost cases against Allied interests.

TO : Regional Commissioner, LAZIO_UMBRI Region.
(Attn: R.L.O. for Officer i/c Italian Courts).

Reference your L/607 of 20 Mar 45.

1. With reference to your monthly report and the disappearance between your office and the Procura of 215 cases affecting Allied interests, could some precision on this matter be given as soon as possible.

2. It is intended to draw the attention of the Minister of Justice on this unusual occurrence and this cannot be done without being in possession of all the facts.

By command of Rear Admiral STONE :

G. G. HAMMOND,
Lt Colonel,
Officer i/c Italian Branch,
for Chief Legal Advisor.

Copy to: AC/4043/4/L.

97

Declassified E.O. 12356 Section 3.3/NND No. 785016

LEGAL
1251
730

40 11 13

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

JB/mls

26 February 1945

G-5: 000.5

SUBJECT: Theft - Railway Wagons.

TO : Headquarters, Allied Commission, APO 394.

71A

1. Reference letter this subject G-5: 000.5, 23 February 1945.

2. A further communication has been received on this subject from Mov.& Tn., see copy of letter attached.

3. Please expedite your reply.

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

Julius Byles
JULIUS BYLES,
Major, F.A.

Incl:
copy ltr. Mov 3/221, dated 22 Feb.45,
G-4 (Mov.& Tn) to G-5.

Copy to:
G-4 (Mov.& Tn).

HEADQUARTERS
27 FEB 1945
A. C.

LEGAL SUB COMMISSION
CLO
DCLO
Chief Counsel
CJO
[illegible]
28 FEB 1945

See also 72A.

96

2935

Declassified E.O. 12356 Section 3.3/NND No. 785016

(783)

COPY

G-4 Mov & Tn
Allied Force Headquarters
Tel. No. Freedom 320.

Mov 3/221

Subject : Conference on Train Guards.

To : G-5.

1. A conference was recently held at this H.Q. to consider measures to be taken to counter pilferage of stores in transit by rail.

2. It was agreed that penalties imposed on thieves when caught are insufficient to act as a deterrent. You are therefore requested to consider the possibility of arranging that civilians caught thieving should be tried by a Military Court.

3. Your observations are requested.

/s/ W. S. C. BOSWELL
/t/ W. S. C. BOSWELL, Major,
for Brigadier,
D.Q.M.G. (Mov & Tn)

22 Feb 45.

95

Declassified E.O. 12356 Section 3.3/NND No. 785016

72A

H. DQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

AC/4011/3/L.

WEB/ap

26 February 1945.

SUBJECT : Theft - Railway Wagons.

TO : AFHQ G-5.

71A

1. In reply to your G-5: 000.5 of 23 Feb 45 it is not possible for this Commission to comment usefully upon the statement that civilians have escaped punishment although charged with theft of military stores, unless particulars are supplied of the cases of which complaint is made.

2. It is agreed that such civilians, if proved guilty, should receive adequate punishment. This Commission is in constant collaboration with the Ministry of Justice in order to ensure that cases affecting Allied interests are promptly and efficiently handled in the Italian Courts. Several directives have already been issued by the Ministry for the protection of the Allies in this respect and stressing the necessity for heavy penalties.

3. Allied Military Courts can only be authorised in special circumstances when the particular facts warrant such a course. Application should be made to this Commission in each case giving the necessary evidence and other details. It should be pointed out that the new policy for the administration of Italy involves the withdrawal of all legal AC personnel from Italian Government territory and will inevitably necessitate a reduction of the number of cases in which it will be possible to authorize AM Courts.

For the Chief Commissioner :

94

G. R. UPJOHN, [illegible]
VP CA Sec [illegible] AC

Declassified E.O. 12356 Section 3.3/NND No. 785016

40111/3

Legal

1124

71A

ALLIED FORCE HEADQUARTERS
G-5 Section
AFO 512

JB/WSW

G-5: 000.5

23 February 1945

SUBJECT: Theft - Railway Wagons.

TO : Headquarters, Allied Commission, APO 394.

1. A communication has been received from G-4 (Mov & Tn) this HQ, concerning measures which might be taken to lessen the amount of theft of military stores which is occurring from railway wagons in transit.

2. It is stated that in many cases civilians who were handed over to the civilian authorities were not punished and that steps should be taken to ensure that such civilians do receive adequate punishment.

3. The question is also asked as to the possibility and practicability of trying by an Allied Military Court civilians apprehended in stealing military stores from railway wagons.

4. Your comment is invited.

For Asst. Chief of Staff, G-5:

Julius Byles
JULIUS BYLES,
Major, F. A.

93

HEADQUARTERS
25 FEB 1945
A. C.

LEGAL SUB-COMMISIO
CLO
DCLO
Chief Counsel
CIO
Italian Section
CLERKS
26 FEB 1945

Declassified E.O. 12356 Section 3.3/NND No. 785016

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

70A

D. 5930

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LAZIO-UMBRIA REGION, LEGAL DIVISION
A.P.O. 394

29 November 1944

L/1601

SUBJECT : Cases affecting Allied Interests.

TO : Officer in charge of Italian Branch
for Chief Legal Adviser, (att.Lt.Col.Hannaford)
ALLIED COMMISSION.

69A

1. The principles enunciated in your letter of the 27th. November,1944, with respect to the above, are quite sound, and it is hoped that the steps which have been taken to relieve this extremely difficult problem will in some measure serve to reduce the pressure , which as your letter indicates, is daily becoming more acute.

Robert C. Hendrickson,
Major, A.U.S.
Regional Legal Officer,

RCH/BAL SUB COMMISION
CLO
DCLO
Chief Counsel
CJO
Italian Section
CL RKS
2 DEC 1944

92

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

Declassified E.O. 12356 Section 3.3/NND No. 785016

69A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

GGH/pa.
27 Nov. 44.

AC/4011/3/L

SUBJECT : Cases affecting Allied Interests.

TO : Regional Commissioner, Lazio-Umbria Region.
(attention Regional Legal Officer)

1. Enclosed are returned card index of cases tried by Italian Courts and list of cases pending before such Courts.

2. Though sentences pronounced by Italian judges for the theft of Allied property may appear to be on the weak side, they are not altogether inadequate.

3. Clearly it is impossible to request Italian judges to give heavier sentences to offenders against Allied interests than would apply to delinquents committing the same offence against Italian property, both cases being punishable under the same Article of the Code.

4. Therefore if judges administer the same and impartial justice whether the offence affects Allied or Italian interests, there seems to be grounds for complaint. On the other hand if their justice tends to favour the first category of delinquents against the other, steps should be taken to bring them back to a more sane comprehension of the duties of the Bench.

5. Finally, it was statde at the Minister's conference yesterday that for every 50 individuals released daily, over one hundred are arrested by the Police. On Sunday, 12 Nov. 620 "denuncie" were recived at the Procura del Regno.

In order to reduce as much as possible preventive detention the Minister has been requested to instruct the Procuratore Generale to increase the number of "giudici istruttori" from 12 to 16 and this Sub-Commission has been requested to intervene in order that light be supplied to the Palace of Justice from 1600 to 2100 hours.

91

6. It is hoped that these steps will give some relief to a situation which, as you are aware, is daily becoming more acute.

By command of Commodore STONE.

G.G.HANNAFORD Lt. Col.
Officer i/c Italian Branch
for Chief Legal Advisor.

2150

Declassified E.O. 12356 Section 3.3/NND No. 785016

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4011/3/L. 25 November 1944

SUBJECT : Situation of Allied interest cases.

TO : H.E. The Minister of Pardon and Justice.
(for Procuratore Generale Court of Appeal, Rome)

Following today's conference please find enclosed a report on the situation of Allied interest cases as requested by Your Excellency.

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G. G. HARNAFORD,
Lt. Col.,
Officer i/c Italian Branch,
for Chief Legal Advisor

Declassified E.O. 12356 Section 3.3/NND No. 785016

68

4011/3

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LAZIO - UMBRIA REGION

24 November 1944.

SITUATION OF ALLIED INTEREST CASES on 24-NOVEMBER 1944.

Tried by It. Courts until 23.11.44	Not Tried	Possession of All. Property	Possess. Fire arms	Other crimes
69	725 of which	500	72	154

Other crimes: Selling liquors and soft drink; price tags default, larceny, robbery; bribery; forging of signature and money; false identity; no means of identifications; curfew; collaboration with Germans; dressing Allied uniform and impersonating Allied soldiers; stealing requisitioned cars, speeding etc.

89

Declassified E.O. 12356 Section 3.3/NND No. 785016

(680)

QUARTIER GENERALE
GOVERNO MILITARE ALLEATO
REGIONE LAZIO-UMBRIA

18 novembre, 1944.

A S.E. il Ministro
di Grazia e Giustizia,
R O M A

OGGETTO - ARRESTO DI DE GIUSEPPE Aldo, NULLI GIORGIO e TARDELLI TOMMASO da parte dei CC.RR. di Roma, Stazione di Viale Mazzini in data 1. corrente.

Eccellenza,

il 1. novembre, 1944, i CC.RR. della Stazione Viale Mazzini procedevano all'arresto delle persone in oggetto, relativi di numerosi furti di automobili, gomme, camere d'aria ecc. ed al sequestro di ingenti quantita' di refurtiva.

Del fatto e' stata investita l'Autorita' Giudiziaria Italiana con rapporto della predetta Stazione CC.RR. No.24 in data 6 nov.1944.

Data la seria situazione della criminalita' nella Capitale e' assolutamente necessario che entrambi le forze di Polizia (P.S. e CC.RR.) siano convenientemente dotate di automezzi per combattere questa minaccia.

Questo Comando sta facendo quanto e' in suo potere per trovare autocarri ed automobili onde dotarne le Forze di Polizia della Capitale e quelle delle Provincie, e la questione delle gomme presenta carattere di particolare urgenza..

Sarei pertanto grato se V.E. ravvisasse l'opportunita' di disporre che il processo in questione venga definito con precedenza sugli altri e che alla conclusione di esso tutte le gomme disponibiliti, attualmnte a disposizione della Giustizia, vengono assegnate alle Autorita' di Polizia perche' ne dispongano ai fini del loro servizio.

Accolga, Eccellenza, i sensi della mia alta considerazione.

Charles Poletti
Colonnello
Commissario Regionale.

2106

Declassified E.O. 12356 Section 3.3/NND No. 785016

for Col. Hannaford 4011|3
GTA

There are no 118 prisoners dependent on Allied Authorities. This has been checked with the Italian prison and judicial officials. The above is a list based on MATRICOLA of prison records.

R A Gayano
Capt, Inf.

1 57

2104

Declassified E.O. 12356 Section 3.3/NND No. 785016

672

DETENUTI PRESENTI nel Carcere Giudiziario all'alba

del 24 Novembre 1944

Data	FORZA PRESENTE	ENTRATI	RILASCIATI	TRASFERITI	RIMANENZA
	Alto Commiss/to	66			
	Questura comuni	17			
	"" U.P.	52			
	Magg.Pattersbeg	-			
	C.C.S. S.I.M.	11			
	Col. Polloch	-			
	Autorità Alleata	118			
	Tribunale Milit.	45			
	Procura Generale	16	N.B.-		
	Procura	(851)	Detenuti trasferiti per sfol-		
	Pretura	44	lamento nella giornata del		
	Definit.App.Ric.	140	24 novembre 1944 N. 427.		
	CC.RR.	33			
	Totale	1393			
	Trasferiti	427			
Presenti alla matti-na del 25.11.1944		966			

HEADQUARTERS REGIONAL PUBLIC SAFETY OFFICER - HIGACC

36

Declassified E.O. 12356 Section 3.3/NND No. 785016

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HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4011/3/L.

ES/Ep.
20 October 1944.

SUBJECT : Directive of Ministry of Justice.

TO : Regional Commissioner, Toscana Region.
(Attention to Regional Legal Officer).

1. Reference your R VIII/19/4004 of 16 Oct 44 fowarding letter SI/5 of 14 Oct 44 of the PLO Siena.

2. Enclosed two directives of the Ministry on the above subject as requested.

BY COMMAND OF COMMODORE STONE

A. R. THACKRAH,
Lt. Colonel,
Italian Branch,
for Chief Legal Advisor.

Inclos.

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Declassified E.O. 12356 Section 3.3/NND No. 785016

1124 65B

ALLIED MILITARY GOVERNMENT
PROVINCE of SIENA

Subject: ITALIAN COURTS. Ref: SI/5.

To: RLO, REGION VIII. Date Oct. 14th 1944.

It has now been arranged in agreement with you, to send certain cases for trial to the Italian Courts.

In this connection it would be appreciated if you can obtain and forward as soon as possible the Italian version of the letter ~~carried~~ issued by the Minister of Justice to all Procuratores on March 1944.

The English translation of the letter is an appendix to Regional Legal Instructions N° 1.

Capt.
Provincial Legal Officer.

54

RVIII/19/4004

Declassified E.O. 12356 Section 3.3/NND No. 785016

4011/3

GSA

1st Ind.

RVIII/19/4004

Region Legal Officer, Toscana Region, 16 Oct. 44,
TO : Chief Legal Advisor, Hqtrs, ACC.,

1. This office does not have an Italian version of the letter referred to in the basic communication. It is dated Salerno 8 March 1944, and was issued by the Ministry of Justice, Central office for Criminal Affairs, Suject : Directive in regard to proceedings for offenses of any description committed against the Allied Governments, Allied forces and property:- It is contemplated sending a copy of such letter to all Provincial Legal Officer for use after a Province reverts to Region control. Will you determine if a copy of such letter is in your files, and if so, may we have a copy of the same ?

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

LEGAL SUB-COMMISION
CLO
DCLO
Chief Counsel
CIO
Italian Section
CL [illegible]
18 OCT 1944

53

4011/3 file

Arrests of Officers of Allied Intern

CAPT. GILLRAITH

file

Dear Sir,

The undersigned lawyer wishes to submit for your examination a practical problem which has arisen subsequent to the passage of penal proceedings, ~~formerly~~ at one time in the jurisdiction of the ~~higher~~ Allied ~~Courts~~ Commanny Courts, ~~passing over~~ to the jurisdiction of the Italian Courts.

The trial system of the Allied Courts is noted for its accuracy and rapidity. The Italian system, tending toward other principles, does not present these qualities, especially ~~with~~ in regard to the manner of treating the rights of the accused under arrest.

According to the Allied procedure, for any offence, even the slightest, as a rule the person presumed guilty is arrested and brought under detention before the judge. The judge however, on the accused pleading not guilty, ~~always~~ may postpones the trial and temporarily releases the accused ~~with a caution~~ on bail, which may even be slight. The case is then discussed with calm in a new hearing. In this way the citizen's ~~the~~ liberty is at first taken from him ~~offended~~ by the police authorities who made the arrest, and later restored ~~is fully refused~~ by the judge.

According to the Italian penal procedure, on the other hand, the judicial and ordinary police officials and agents must arrest any person caught in the act of committing a crime against public rights, or some other crime for which the law prescribes the penalty of imprisonment for a term the maximum limit of which exceeds one year, or a more grave penalty, or in cases of habitual and professional criminals or persons with such a tendency, persons subject to personal security measures, chronic idlers ~~lazy persons~~, beggars, etc,. But arrest is ~~arbitrary~~ discretionary in the case of persons caught in the act of committing a crime punishable by law with up to 6 months imprisonment.

discretionary

Declassified E.O. 12356 Section 3.3/NND No. 785016

tion a practical problem which has arisen subsequent to the penalty of proceedings, at one time summarily in the jurisdiction of the higher Allied Summary Courts, to the jurisdiction of the Italian Courts.

The trial system of the Allied Courts is noted for its accuracy and rapidity. The Italian system, tending toward other principles, does not present these qualities, especially in regard to the manner of treating the rights of the accused under arrest.

According to the Allied procedure, for any offence, even the slightest, as a rule the person presumed guilty is arrested and brought under detention before the judge. The judge however, on the accused pleading not guilty, may postpone the trial and temporarily releases the accused on bail, which may even be slight. The case is then discussed with calm in a new hearing. In this way the citizen's liberty is at first taken from him by the police authorities who made the arrest, and later restored is fully released by the judge.

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In the case of offences, Arrest is discretionary in the case of persons caught in the act of committing offences regarding firearms or explosives, stated in the penal code or other laws, or a few specified offences explicitely mentioned in the code of procedure (articles 235 and 236 of the code of penal procedure).

Declassified E.O. 12356 Section 3.3/NND No. 785018

The police authorities may also arrest suspects only when suspected of a crime for which ~~is necessary~~ a warrant for arrest is necessary while awaiting orders from the judicial authorities who must be informed immediately of the arrest.

Hence, by these regulations, even when a person is caught in the act, arrest is never obligatory for offences within the jurisdiction of the summary court, which usually cannot call for a penalty of more than one year. On the other hand it is to be noted the the practice of the Italian Police is rarely to arrest person in the act of an offence, when the arrest is not obligatory, or in other words an offence which calls for the penalty of imprisonment the maximum term of which exceeds 6 months (all of which cases are contemplated in the cumulative jurisdiction regulations ~~of the summary court which fall within the jurisdiction of~~ one Summary court).

With regard to suspects of offences according to art. 238 of the code of penal procedure, arrest is not possible for offences within the jurisdiction of the summary courts because an obligatory warrant for arrest according to art. 253 is not prescribed.

Hence if the Italian laws were to be applied fully (as they must) for offences concerning the Allies and within the jurisdiction of the Italian Courts and which were originally dealt with by the Allied Courts, the accused of these offences would, in the overwhelming majority of cases, be denounced to the judicial authority but not arrested. Thus would the rights of individual liberty be protected, as they are in the Allied system of procedure, by providing temporary liberty on bail granted by the judge immediately after arrest.

But whereas all the cases formerly dealt with by the Allied summary courts are to be handed over to the Italian judicial authorities, no regulations have been issued for the treatment of the accused with regard to his individual liberty.

Declassified E.O. 12356 Section 3.3/NND No. 785016

immediately of the arrest.

Hence, by these regulations, even when a person is caught in the act, arrest is never obligatory for offences within the jurisdiction of the summary court, which usually cannot call for a penalty of more than one year. On the other hand it is to be noted the the practice of the Italian Police is ~~really~~ rarely to arrest persons in the act of an offence, when (the arrest is) not obligatory, or in other words an offence which calls for the penalty of imprisonment the maximum term of which exceeds 6 months (all of which cases are ~~dealt~~ contemplated in the ~~jurisdiction~~ enumerative regulations ~~of the summary courts, which deal with the jurisdiction of the~~ Summary courts).

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Hence if the Italian laws were to be applied fully (as they must) for offences concerning the Allies, and within the jurisdiction of the Italian Courts and which were originally dealt with by the Allied Courts, the accused of these offences would, in the overwhelming majority of cases, be ~~reported~~ denounced to the judicial authority but not arrested. Thus ~~would~~ the rights of individual liberty (be ~~supervised~~, would be protected, as they are in the Allied system of procedure, by providing temporary liberty ~~with~~ on bail a ~~caution~~ granted by the judge immediately after arrest.

51

But whereas all the cases formerly dealt with by the Allied summary courts are to be handed over to the Italian judicial authorities, no regulations have been issued for the treatment of the accused with regard to his individual liberty.

The Allied and Italian police arrest offenders and forward the ~~reports~~ denunciations to the judicial authorities, holding the accused under pre-trial detention. With the system of Italian justice it is not possible to release an accused from jail if he has not been examined by the judge, making the enquiries (Procurator of the King or investigation judge),

Declassified E.O. 12356 Section 3.3/NND No. 785016

if an enquiry has not been made, if there are no formulas, no penal certificate.

Hence an accused may be temporarily released by order of the judge, in normal times usually after a considerable number of days have passed. At the present moment however, as the offices of the procurator are overburdened with work, the personnel scarce, means of communications most insufficient, it so happens that those accused of minor crimes within the jurisdiction of Italian summary courts and who should have immediately obtained temporary liberty from the said summary courts, remain in jail for a long period of time, which in some cases, as in the one in which the undersigned is interested, has already exceeded 16 days.

The problem is serious, and in the opinion of the undersigned should be solved immediately.

According to the undersigned, a remedy for this state of affairs should be the following. Since the judging authority is no longer the judicial allied authority, instructions have to be given to the Allied and Italian police who deal with offences concerning the Allies to denounce offenders of Allied proclamations without arresting them giving the judge the power to order warrant for arrest in more serious offences.

The denunciation without arrest should be a rule and the denunciation with detention should be an exception, as it is under the practice under the Italian penal system.

The undersigned is certain that you will examine this report very carefully and that adequate provisions will be adopted within the limit of your ability.

80

Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

File

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

G3A

ACC/4011/3/L.

ES/pa.
13 Sept 44.

SUBJECT : Arrests in cases of offences against Allied interests.

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

1. Enclosed for Your Excellency's consideration an interesting memorandum of Avv. PERRIS.

1 enclos.

G. E. HAMILTON,
Lt.Colonel,
Officer i/c Italian Branch,
for Chief Legal Officer.

Avv. CORRADO PERRIS
VIA TERENZIO 33 - TEL. 35038
ROMA

FILE

630

ILLUSTRISSIMO SIGNOR CAPITANO GILLREATH

ROMA

Il sottoscritto avvocato sottopone al vostro esame un problema pratico che si presenta con il passaggio alla competenza delle Corti italiane dei procedimenti penali, già di competenza delle Corti sommarie alleate.

Il sistema processuale delle Corti alleate si distingue per la sua snellezza e rapidità, pregi questi che il sistema italiano, ispirato ad altri principi non presenta, sopratutto per quanto riguarda il trattamento dei diritti dell'imputato in istato d'arresto.

Secondo la procedura alleata, in linea di massima, per qualunque infrazione, anche di minima importanza, si procede all'arresto del presunto colpevole, che è portato innanzi al giudice in istato di detenzione. Il giudice però, raccolta la dichiarazione di non colpevolezza, rinvia sempre il processo, e mette l'accusato in istato di libertà provvisoria sotto una cauzione che può essere anche di lieve entità. Tutto ciò avviene con rapidità da record. La causa poi si discute in una nuova udienza, con calma. In tal modo, la libertà del cittadino, offesa in una prima fase dall'autorità di polizia che procedeva all'arresto,

78

Declassified E.O. 12356 Section 3.3/NND No. 785016

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78

Declassified E.O. 12356 Section 3.3/NND No. 785016

Secondo la procedura penale italiana, invece, gli ufficiali o gli agenti della polizia giudiziaria e della forza pubblica hanno l'obbligo di procedere all'arresto di chiunque sia colto in flagranza di un delitto contro la personalità dello Stato, o di un altro delitto per il quale la legge stabilisce la pena della= reclusione superiore nel massimo ad un anno, o una pena più grave, o quando si tratti di delinquenti abi= tuali professionali o per tendenza, o di sottoposti a misura di sicurezza personale, di oziosi, di mendican= ti, ecc. Invece è facoltativo l'arresto per chi sia colto in flagranza di un delitto per il quale la leg= ge stabilisce la pena della reclusione superiore nel massimo a 6 mesi. In tema di contravvenzioni si può procedere facoltativamente all'arresto di chi sia colto in flagranza di contravvenzioni concernenti le armi o le materie esplodenti, prevedute dal codice pe= nale o da altre leggi, o per alcune determinate con= travvenzioni esplicitamente menzionate nel codice di procedura (art. 235 e 236 del cod. di procedura pena= le). Si può anche procedere al fermo di indiziati di un reato da parte degli organi di polizia, soltanto quando si tratti di persone gravemente indiziate di

Declassified E.O. 12356 Section 3.3/NND No. 785016

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Declassified E.O. 12356 Section 3.3/NND No. 78016

ria alla quale deve essere data immediata partecipa=
zione del fermo compiuto.

Consegue da queste disposizioni, che per i reati di competenza della corte sommaria, i quali in generale non possono importare pena superiore ad 1 anno, l'arre=sto non è mai obbligatorio, neppure in caso di fla=granza; mentre d'altra parte è da notare, che per la prassi della polizia italiana, raramente si procede all'arresto di colpevoli colti in flagrante di un rea=to per cui sia facoltativo l'arresto, e cioè che sia punibile con la pena della reclusione superiore nel massimo a 6 mesi (casi tutti previsti dalle norme di competenza sulle corti sommarie).

Per quanto riguarda il fermo di indiziati di rea=ti, ai sensi dell'art. 238 del cod. di procedura pena=le, esso non sarebbe mai possibile per reati di com=petenza delle corti sommarie, in quanto per essi non è previsto il mandato di cattura obbligatorio ai sen=si dell'art. 253.

Consegue da quanto abbiamo sopra detto che, se dovesse applicarsi integralmente (come deve appli=carsi) la legge italiana per i reati di competenza delle corti italiane che interessano gli alleati, e che originariamente erano di competenza delle corti

Declassified E.O. 12356 Section 3.3/NND No. 785016

ria alla quale deve essere data immediata partecipazione del fermo compiuto.

Consegue da queste disposizioni, che per i reati di competenza della Corte sommaria, i quali in generale non possono importare pena superiore ad 1 anno, l'arresto non è mai obbligatorio, neppure in caso di flagranza; mentre d'altra parte è da notare, che per la prassi della polizia italiana, raramente si procede all'arresto di colpevoli colti in flagrante di un reato per cui sia facoltativo l'arresto, e cioè che sia punibile con la pena della reclusione superiore nel massimo a 6 mesi (casi tutti previsti dalle norme di competenza sulle Corti sommarie).

Per quanto riguarda il fermo di indiziati di reati, ai sensi dell'art. 238 del cod. di procedura penale, esso non sarebbe mai possibile per reati di competenza delle Corti sommarie, in quanto per essi non è previsto il mandato di cattura obbligatorio ai sensi dell'art. 253.

Consegue da quanto abbiamo sopra detto che, se dovesse applicarsi integralmente (come deve applicarsi) la legge italiana per i reati di competenza delle Corti italiane che interessano gli alleati, e che originariamente erano di competenza delle Corti alleate, gli accusati di tali reati sarebbero nella

Declassified E.O. 12356 Section 3.3/NND No. 785016

stragrande maggioranza dei casi denunciati a piede libero all'autorità giudiziaria italiana. Con ciò verrebbero tutelati i diritti della libertà individuale, così come il sistema processuale alleato tutela tali diritti con il sistema della libertà provvisoria sotto cauzione concessa dal giudice immediatamente dopo l'arresto.

Ora avviene che con il passaggio all'autorità giudiziaria italiana di tutte le cause di competenza delle Corti sommarie alleate, non si è provveduto a regolare il trattamento dell'accusato per quanto riguarda la sua libertà individuale. La polizia alleata e italiana procedono all'arresto degli autori dei reati, e trasmettono le denuncie all'autorità giudiziaria, mantenendo in istato di detenzione preventiva gli imputati. Per il meccanismo della giustizia italiana, non è possibile procedere alla scarcerazione dell'imputato se prima questo non è interrogato dal giudice che esegue l'istruttoria (Procuratore del Re o giudice istruttore), se prima non viene eseguita una certa istruttoria, se non si abbiano i rituali e il certificato penale ecc. Deriva da ciò che un provvedimento di scarcerazione dell'imputato per libertà provvisoria può es=

Declassified E.O. 12356 Section 3.3/NND No. 785016

stragrande maggioranza dei casi denunciati a piede libero all'autorità giudiziaria italiana. Con ciò verrebbero tutelati i diritti della libertà individuale, così come il sistema processuale alleato tutela tali diritti con il sistema della libertà provvisoria sotto cauzione concessa dal giudice immediatamente dopo l'arresto.

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Declassified E.O. 12356 Section 3.3/NND No. 785016

l'attuale situazione, invece, dato che gli uffici di procura sono oberati di lavoro, che il personale è scarso, che i mezzi di comunicazione sono deficientissimi, avviene che gli imputati per reati di minima importanza, che rientrano nella competenza delle corti sommarie e che avrebbero ottenuto immediatamente la libertà provvisoria dalle corti sommarie stesse, giacciono in prigione per un lungo periodo di tempo, che in alcuni casi, di cui il sottoscritto si sta interessando, ha già superato i 15 giorni.

Il problema è grave, e ad avviso del sottoscritto va risolto rapidamente.

Un rimedio a questo stato di cose potrebbe, ad avviso del sottoscritto, essere il seguente: poichè l'autorità giudicante non è più l'autorità giudiziaria alleata; bisognerebbe dare disposizioni alla polizia alleata e alla polizia italiana che procedono per i reati che interessano gli alleati, di denunciare i contravventori ai bandi alleati a piede libero, lasciando al giudice la facoltà nei reati più gravi di spiccare il mandato di cattura. La denuncia a piede libero dovrebbe essere la regola, quella in istato di detenzione l'eccezione: così come usa secondo il sistema penale

77

Declassified E.O. 12356 Section 3.3/NND No. 785016

l'attuale situazione, invece, dato che gli uffici di procura sono oberati di lavoro, che il personale è scarso, che i mezzi di comunicazione sono deficientissimi, avviene che gli imputati per reati di minima importanza, che rientrano nella competenza delle corti sommarie e che avrebbero ottenuto immediatamente la libertà provvisoria dalla corti sommarie stesse, giacciono in prigione per un lungo periodo di tempo, che in alcuni casi, di cui il sottoscritto si sta interessando, ha già superato i 16 giorni.

Il problema è grave, e ad avviso del sottoscritto va risolto rapidamente.

Un rimedio a questo stato di cose potrebbe, ad avviso del sottoscritto, essere il seguente: poichè l'autorità giudicante non è più l'autorità giudiziaria alleata; bisognerebbe dare disposizioni alla polizia alleata e alla polizia italiana che procedono per i reati che interessano gli alleati, di denunciare i contravventori ai bandi alleati a piede libero, lasciando al giudice la facoltà nei reati più gravi di spiccare il mandato di cattura. La denuncia a piede libero dovrebbe essere la regola, quella in istato di detenzione l'eccezione: così come usa secondo il sistema penale italiano.

77

Il sottoscritto è convinto che vorrete conside=

Declassified E.O. 12356 Section 3.3/NND No. 785016

rare attentamente il presente esposto, e che nei limi=
ti delle vostre possibilità vorrete provocare sollecita=
tamente i provvedimenti adeguati.

Con ossequio,

(Avv. Corrado Perris)

avv. Corrado Perris

Roma, 2 settembre 1944

Declassified E.O. 12356 Section 3.3/NND No. 78516

Declassified E.O. 12356 Section 3.3/NND No. 785016

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

629

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

9 September 1944

L/1136

SUBJECT : Suggested procedure in penal trials.

TO : Lt. Col. Hannaford,
Legal Sub Commission, A.C.C.

1. The attached proposals are not without merit.
2. Your reaction will be appreciated.

Robert C. Hendrickson,
Major, A.U.S.
Regional Legal Officer.

RCH/PA.

ENCLOSURE:

Communication of Avv. Perris to Capt.Gilreath, dated 2/September 1944.

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

forwarded to Public Safety Branch for consideration

16

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

2126

Declassified E.O. 12356 Section 3.3/NND No. 785016

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

(61A)

ACC/4011/3/L. ES/pa.
13 Sept 44.

SUBJECT : Arrests in cases of offences against Allied interests.

TO : Public Safety Sub-Commission.

1. Enclosed for your information and any action you might wish to take a memorandum of Avv.PERRIS concerning the above subject.

1 75

1 enclos.

G. C. HADDAFORD,
Lt.Colonel,
Officer i/c Italian Branch,
for Chief Legal Officer.

Declassified E.O. 12356 Section 3.3/NND No. 785016

CONFIDENTIAL

(60A)

Tel Ext - 478094.

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

LCO/4011/3/L. /rlp. 22 July 1944.

SUBJECT : Allied authority over Italians who commit crimes against Allied military personnel.

TO : Naval Sub-Commission, HQ ACC.

1. Reference yours NI3/NSC, Serial 42, 17 July 1944.

2. It would greatly assist this sub-commission in answering your inquiries if you would present the facts of the specific case or cases with which you are concerned. We would thus be saved the necessity of answering in broad generalities, and at the same time would be better equipped adequately to answer your questions.

3. We assume, although you do not so state, that your questions have only to do with acts committed in Italian Government territory (that is to say, in territory under Italian administration in contrast to Military Government territory), and what follows is therefore limited thereto.

4. All crimes committed in Italian Government territory will normally be tried under Italian law and by Italian Courts. The Allied Forces, however, have reserved to themselves the right to hold Allied Military Courts in Italian Government territory for the trial of persons (civilian or military) who commit acts seriously hostile to the Allied forces and to punish them in accordance with the Italian Penal Code. The reservation of this right is not for the purpose of encouraging the trial of persons by Allied Courts, but to enable them to deal with the most serious offenses against Allied personnel or property which cannot be properly dealt with by the Italian Courts. If such an offense has been committed, the military authorities should give a full statement of the facts to the local representative of the ACC with the request that an Allied Military Court be convened to hear the charges.

5. Consequent upon the power to try such persons, there is reserved to the Allied Forces the power to arrest persons who are believed to have committed such offenses. High ranking Italian officials and officers of the Italian Armed Forces should, however, only be arrested in collaboration with the appropriate Italian official (e.g., the Prefect or the Commanding Officer of the officer concerned). In all cases of arrest the agreement of

DOWN GRADED TO UNCLASSIFIED

Col. Inf.
Chief Judicial Officer,
for Chief Civil Affairs Officer.

CONFIDENTIAL

Declassified E.O. 12356 Section 3.3/NND No. 785016

the local ACC officer must be first obtained, except in an emergency, when he should be informed immediately after the arrest.

6. On the subject of arrests generally I enclose a copy of memorandum of MA No. 2 District CMF dated 6 May 1944 and attached papers which was based on a memorandum prepared by this sub-commission somewhat earlier setting forth the duties of legal officers in Italian Government Territory in this general regard.

7. Major A.W.L. Franklin, ACC Legal Liaison officer located at Bari could be consulted for further details, if desired.

MARC J. GROSSMAN,
Lt. Col.,
Chief Counsel,
for Acting Chief Legal officer.

1 Incl.

73

Declassified E.O. 12356 Section 3.3/NND No. 785016

Folio 13

Legal 59A

ALLIED CONTROL COMMISSION
NAVAL SUB-COMMISSION
Navy House, Taranto, Italy

File No.
P13/NSC

Serial 42.

17 July 1944.

From: Naval Sub-Commission, Allied Control Commission.
To : Legal Sub-Commission, Allied Control Commission.

Subject: Allied authority over Italians who commit crimes against Allied military personnel.

1. It is requested that this sub-commission be furnished complete information regarding Allied authority over Italians, both civilians and members of the Italian Armed Forces, who commit crimes against Allied military personnel. In addition, information is desired regarding the proper procedure for an Allied commander to follow in regard to an Italian who has committed a crime against one of the Allied commander's subordinates. Information is particularly desired in regard to an Allied commander's powers of arrest and detention over such Italians.

H. W. ZIROLI.
Commodore, U. S. Navy,
Senior U. S. Naval Liaison Officer in Italy,
for Chief, Naval Sub-Commission, ACC.

Copy to:
NAVREP NSC Rome.

HEADQUARTERS
20 AUG 1944
A. C. C.

LEGAL SUB-COMMISION
12
OCLO
Chief Counsel
CJO
Italian Section
CLERKS

Declassified E.O. 12356 Section 3.3/NND No. 785016

58A

File

BRAD HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

ACC/LCOM/3/L 29 June 1944.

SUBJECT: Draft Directive by Gen. Trains.

TO : MIO (thru HQ) Region 2.

Referring to conversation Col. Upjohn -, Major Franklin yesterday herewith a revised Rider 3.

C. R. [illegible], Colonel
Chief Legal Officer.

71

Declassified E.O. 12356 Section 3.3/NND No. 785016

379

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

18 June 1944.

REFERENCE : ACC/4011/3/L.

SUBJECT : Italian Military Courts.

TO : Legal Officer, ACC., BARI.

1. The directive of General Truina submitted with your letter of 9 June 1944 and order of 2 February 1945 have been examined. These papers are being returned together with a translation of the proposed directive :-

(a) The second sub-paragraph of paragraph (1) should be revised as set forth in the rider attached to the translation for the reason that it seems rather useless at the moment to hold out any hopes for Allied Transportation.

(b) The last sub-paragraph of paragraph (4) and paragraph (5) have been revised as shown on rider attached to the translation.

2. Inquiry has been made about the state of the Gaeta military prison. It is reported as badly damaged and unusable. There seems to be some discrepancy as to the normal accommodations of the prison. You stated that it held 7,000 prisoners, whereas the Public Safety Sub-Commission which has made the recent investigation reports to me that it was designed to hold normally 60 prisoners with a top limit of 80. Possibly General Truina can give you some more specific description about this so that we can be sure we are discussing the same prison.

3. As to General Trudin going to Rome, I suggest that he arrange this through the Minister of War.

76

RICHARD H. WILDER.
Colonel, CAC.,
Deputy Chief Legal Officer.

RHW/wcw.

2132

Declassified E.O. 12356 Section 3.3/NND No. 785016

Rider A: At the present time you should make your request for transportation to the Commander of the Grande Unità, to which you are attached asking him to provide whatever is possible. In the event that additional means of transportation, now being requested, is forthcoming you will be given further instructions.

Declassified E.O. 12356 Section 3.3/NND No. 785016

576

TRANSLATION.

R. Procura Generale Militare
Presso la
Sezione di Tribunale Supremo Militare

SUBJECT: Offences against the interests of the Allied Armed Forces.

TO the R. Procuratori dei Tribunali Militari Terr. Di Guerra Di Bari, etc.

So that all Military Tribunals may follow a uniform principle in dealing with offences against the interests of the Allied Armed Forces, I bring to your attention the following directions which integrate those already given by Circular No. 8, 5 May 44.

(1) Proceedings must be carried through as quickly as possible, avoiding adjournments of the hearings, and advantage taken of those cases where the matter can be remitted to the ordinary judicial authority by virtue of Art. 253 Military Penal Code for War.

Adequate means of transport have been requested from the Allied Command to facilitate the movement of judges, for carrying out their investigations and for the Bench of judges itself, the transport of detained persons and the delivery of summons and of correspondence. Pending the granting of this request you should make your requests to the Commander of the Grande Unità to which you are attached asking him to provide whatever is possible.

(2) There can be no dispute concerning the jurisdiction of military judges over offences committed by Italian soldiers or by Italian civilians who by their work are in the service of the Allied forces, it being necessary that, as was stated in Circular No. 8, the cobelligerent State be held as the equivalent to an "Allied State" for all purposes of Article 15 M.P.C.W.

(3) The penalties established by Articles 164 and 165 MPCW to provide for and to discourage the offences of destroying or of making away with military equipment and articles of clothing have been considerably increased by the "Bando" of 2 February 1943, published in the Official Gazette No. 52, 9 February 1943. "Military judicial administrations in territory declared or considered as being in a State of War" and, changing in part the aforesaid articles, added the category of "Articles constituting military armaments however the accused may have come into possession thereof".

In this respect Art. 3 of the cited Bando establishes the same penalties for any person acquiring or holding under any title whatsoever in territory in a state of war any of the articles coming within the offences set out in Arts 163 and 164.

According to such provisions any person committing an offence covered by Article 166 and Art. 3 of the "Bando" above - may be sentenced in ordinary cases, to a term of imprisonment (reclusione) of not more than three years, and if there are aggravating circumstances to not more than 10 years. A much heavier penalty may be awarded when it is a case of making away with arms or articles constituting military armament however they came into the possession of the soldier.

The jurisdiction for such offences is always with the Military Judicial Authority.

Declassified E.O. 12356 Section 3.3/NND No. 785016

Rider B: In connection with the application of Article 166 above it should be observed that Allied soldiers are able to purchase from Allied stores personal articles such as cigarettes, candy and toilet articles although always in limited quantities, and hence as gifts or as exchanges for laundering of clothes or other services those articles have found their way into the hands of Italians, but generally the amounts so collected by any Italian individual will be in small amounts worth in the aggregate probably less than one thousand lire calculated at the cost price.

The holding of such articles of an aggregate value in excess of the foregoing amount would seem to raise a presumption that the articles were acquired or were being held illegally in contravention of Art. 166. On the other hand the holding of such articles of a lesser aggregate value would indicate that they may not be held in contravention of Art. 166 but may have been accepted in contravention of Art. 712. It is of course always illegal to acquire such articles whether by exchange, purchase or gift.

Declassified E.O. 12356 Section 3.3/NND No. 785016

Rider B: In connection with the application of Article 166 above it should be observed that Allied soldiers are able to purchase from Allied stores personal articles such as cigarettes, candy and toilet articles although always in limited quantities, and hence as gifts or as exchanges for laundering of clothes or other services these articles have found their way into the hands of Italians, but generally the amounts so collected by any Italian individual will be in small amounts worth in the aggregate probably less then one thousand lire calculated at the cost price.

The holding of such articles of an aggregate value in excess of the foregoing amount would seem to raise a presumption that the articles were acquired in contravention of Art 166 or were being held illegally. On the other hand the holding of such articles of a lesser aggregate value would indicate but does not necessarily mean that they were acquired or are being held legally. may have been received in contravention of Art 712 As

Declassified E.O. 12356 Section 3.3/NND No. 785016

Rider C: (5) Conversely cases, where it is shown that the person in possession irrespective of the value of the articles is engaged in trafficing in military articles or articles of the type mentioned in the last subparagraph of paragraph (4), should be considered with particular severity. It must also be borne in mind that under no circumstances may soldiers legally part with military supplies, clothing, food rations, or equipment, which is a fact well known to civilians.

Declassified E.O. 12356 Section 3.3/NND No. 785016

(4) Having regard to the innovations introduced by the above "Bando" the distinction between the special type of offence set out in Article 166 M.P.C.W. amplified by the Bando and that of receiving (ricettazione) must be found either in the value (consistenza) or in the nature of the articles bought or retained.

When such articles can be considered, and this must be taken in a broad sense, as articles which may have been issued to the soldier (potevano avere in dotazione) or when dealing with articles constituting military armament - the offence is that provided for by the aforesaid Article 166 - and Article 3 of the Bando above- when however the articles exceed this ~~amount~~, except for armaments, the offence is that of receiving (ricettazione).

It is well known that Allied soldiers are able to obtain from stores articles like cigarettes although always in limited quantities, and hence it is possible for a small stock to be collected. In consideration of this with respect to the application of Article 166 above the Allied Commission has suggested as a general rule and not as a fixed assessment that the value of such articles, calculated at cost price, should not exceed one thousand lire.

(5) Cases where it is shown that the person in possession is engaged in trafficking in military articles should be considered with particular severity.

Consequently cases which deal with articles of very little value found in the possession of a person of irreproachable character or given in exchange for some lawful service should be investigated with the greatest consideration even as far as the judicial police not presenting their report but limiting themselves if necessary to a verbal warning.

(6) The delivery of the report from the R. Procuratori Militare to the ordinary judicial authority must take place by hand and be delivered on the same day as it is despatched.

You together with the ordinary judicial authority, who I have reason to believe will receive or have already received similar directions, will give directions to the Public Security authorities so that the charge for the offence and the delivery of the report to the competent judicial authority shall comply with the above rules.

To expedite the proceedings please give instructions for a written report to be made out accurately describing the articles confiscated, specifying the cost price and when relevant their condition and also to include in the written report (verbale di denuncia) a detailed statement by the person making the report.

Il Procuratore Generale Militare Del Re ff.
(Ten. Gen. Francesco TRAINA)

Declassified E.O. 12356 Section 3.3/NND No. 785016

57c

TRASMETTE.

R. Procura Generale Militare
Presso la
Sezione di Tribunale Supremo Militare

SUBJECT: Offences against the interests of the Allied Armed Forces.

To the R. Procuratori del Tribunali Militari Terr. Di Guerra Di Bari, etc.

So that all Military Tribunals may follow a uniform principle in dealing with offences against the interests of the Allied Armed Forces, I bring to your attention the following directions which integrate those already given by Circular No. 8, 5 May 44.

(1) Proceedings must be carried through as quickly as possible, avoiding adjournments of the hearings, and advantage taken of those cases where the matter can be remitted to the ordinary judicial authority by virtue of Art. 253 Military Penal Code for War.

As regards means of transport here been requested from the Allied Command to facilitate the movement of judges, for carrying out their investigations and for the Bench of judges itself, the transport of detained persons and the delivery of summons and of correspondence. Pending the granting of this request you should make your requests to the Commander of the Carabinieri Unit to which you are attached asking him to provide whatever is possible.

(2) There can be no dispute concerning the jurisdiction of military judges over offences committed by Italian soldiers or by Italian civilians who by their work are in the service of the Allied forces. It being necessary that, as was stated in Circular No. 8, the cobelligerent State be held as the equivalent to an "Allied State" for all purposes of Article 15 M.P.C.W.

(3) The penalties established by Articles 164 and 165 MPCW to provide for and to discourage the offences of destroying or of selling away with military equipment and articles of clothing have been considerably increased by the "Bando" of 2 February 1943, published in the Official Gazette No. 32, 9 February 1943 military judicial administrations in territory declared or considered as being in a State of War" and, changing in part the aforesaid articles, added the category of "Articles constituting military armament however the accused may have come into possession thereof."

In this respect Art. 3 of the cited Bando established the same penalties for any person acquiring or holding under any title whatsoever in territory in a state of war any of the articles coming within the offences set out in Arts 163 and 164.

According to such provisions any person committing an offence covered by Articles 166 and Art. 3 of the "Bando" above - may be sentenced in ordinary cases, to a term of imprisonment (reclusione) of not more than three years, and if there are aggravating circumstances to not more than 10 years. A much heavier penalty may be awarded when it is a case of selling away with arms or articles constituting military armament however they came into the possession of the soldier.

The jurisdiction for such offences is always with the Military Judicial Authority.

(2)

Declassified E.O. 12356 Section 3.3/NND No. 785016

(4) Having regard to the innovations introduced by the above "Bando" the distinction between the special type of offence set out in Article 166 M.P.C.W. amplified by the Bando and that of receiving (ricettazione) must be found either in the value (consistenza) or in the nature of the articles bought or retained.

When such articles can be considered, and this must be taken in a broad sense, as articles which may have been issued to the soldier (potere avere in dotazione) or when dealing with articles constituting military armament - the offence in that provided for by the aforesaid Article 166 - and Article 5 of the Bando above- when however the articles exceed this ~~frame~~ amount, except for armaments, the offence is that of receiving (ricettazione).

It is well known that Allied soldiers are able to obtain from stores articles like cigarettes although always in limited quantities, and hence it is possible for a small stock to be collected. In consideration of this with respect to the application of Article 166 above the Allied Commission has suggested as a general rule and not as a fixed assessment that the value of such articles, calculated at cost price, should not exceed one thousand lire.

(5) Cases where it is shown that the person in possession is engaged in trafficking in military articles should be considered with particular severity.

Conversely cases which deal with articles of very little value found in the possession of a person of irreproachable character or given in exchange for some lawful service should be investigated with the greatest consideration even as far as the judicial police not presenting their report but limiting themselves if necessary to a verbal warning.

(6) The delivery of the report from the R. Procuratori Militare to the ordinary judicial authority must take place by hand and be delivered on the same day as it is despatched.

You together with the ordinary judicial authority, who I have reason to believe will receive or have already received similar directions, will give directions to the Public Security authorities so that the charge for the offence and the delivery of the report to the competent judicial authority shall comply with the above rules.

To expedite the proceedings please give instructions for a written report to be made out accurately describing the articles confiscated, specifying the cost price and when relevant their condition and also to include in the written report (vedasi Al Bando) a detailed statement by the person making the report.

Il Procuratore Generale Militare Del Re IT.
(Ten. Gen. Francesco TRAINA)

1 62.

Rider A: At the present time you should make your request for transportation to the Commander of the Fwards United, to which you are attached asking him to provide whatever is possible. In the event that additional means of transportation, now being requested, is forthcoming you will be given further instructions.

Rider B: In connection with the application of Article 166 above it should be observed that Allied soldiers are able to purchase from Allied stores personal articles such as cigarettes, candy and toilet articles although always in limited quantities, and hence as gifts or as exchanges for laundering of clothes or other services these articles have found their way into the hands of Italians, but generally the amounts so collected by any Italian individual will be in small amounts worth in the aggregate probably less than one thousand lire calculated at the cost price.

The holding of such articles of an aggregate value in excess of the foregoing amount would seem to raise a presumption that the articles were acquired or were being held illegally. On the other hand the holding of such articles of a lesser aggregate value would indicate but does not necessarily mean they have been acquired or are being held legally.

Rider C: (5) Conversely cases, where it is shown that the person in possession irrespective of the value of the articles is engaged in trafficing in military articles or articles of the type mentioned in the last subparagraph of paragraph (4), should be considered with particular severity. It must also be borne in mind that under no circumstances may soldiers legally part with military supplies, clothing, food rations, or equipment, which is a fact well known to civilians.

Declassified E.O. 12356 Section 3.3/NND No. 748016

Declassified E.O. 12356 Section 3.3/NND No. 785016

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ALLIED CONTROL COMMISSION
LEGAL OFFICE
BARI

To:Chief Legal Officer, ACC Rear Headquarters, Salerno

Subject: Military Courts.

1) In order to assist the Italian Police to decide to what judicial a thority different type of offences should be denounced, General Traina has composed the enclosed directive: before issuing it, he has asked me to submit it to you for your approval. Only the second part of paragraph 5 appears controversial. The effect of the directive will be to diminish the share taken by civilian courts in punishing persons wrongfully in possession of Allied property: this in view of the work they are going to be called on to do in connection with annonarian crimes is in my submisaion an advantage: the directive should secure uniformity and remove doubts.

2) General Traina would like to be informed as soon as possible of the present condition of Gaeta military prison, to what extent it has suffered from war damage and to what extent it is occupied by Allied Forces. It is the principal military prison and held 7000 military prisoners before the war.

3) General Traina would like an opportunity to visit Rome as soon as possible in order to find out if there is any personnel of the military tribunals available and wether such personnel is reliable.

9.6.44

LEGAL SUBSECTION
CLO
DCLO
Chief
CLO
Italian Section
CLERKS

A. Brandi Major
L/O Legal

9/6

— Translate please. GG

Declassified E.O. 12356 Section 3.3/NND No. 785016

(563)

AGPG Pam, DCGE 2 Feb. 1943.

Administration of Military Justice in Territory declared to be or considered as being in a State of War.

Ref: Arts. 37 and 20 Military Penal Code of War.

ORDER

Art. 1

When the act of making away with (alienazione) arms or munitions, as dealt with in Art. 165 of the Military Penal Code for Peace is committed in any territory declared to be or considered as being in a state of war, or outside the limits of such territory is committed by any soldier belonging to any command, corps, unit or service corps, the penalty shall be military imprisonment (reclusione militare) for not less than five years.

If the offence is a particularly serious one by reason of the attendant circumstances, or its form, or by reason of the nature, type and quantity of the articles made away with, the penalty shall be death.

The penalties established by the two preceding paragraphs shall also apply when it is a case of making away with arms or articles constituting military armament howsoever the accused may have obtained them.

Art. 2

When any act of making away with articles of clothing or military equipment, as set out in Art. 165 of the Military Penal Code of Peace, is committed in such circumstances, place or by such persons indicated above in the first paragraph of the preceding article, the penalty shall be military imprisonment for 59 not more than three years.

Where aggravating circumstances are present as set out in the second paragraph of the preceding article the penalty shall be military imprisonment for from one to ten years.

Articles

2143

Declassified E.O. 12356 Section 3.3/NND No. 785016

Art. 3

The penalties established by the two preceding articles shall apply to any person who in territory declared to be or considered as being in a state of war buys (acquists) or retains by whatsoever title, any of those things that are the subject of the offences set out in the said articles.

Art. 4

Whosoever instigates a soldier to commit any of the offences set out in Articles 1 and 2 of this Bando shall be punished, if the instigation is not accepted, or if it is accepted but the offence is not committed, by military imprisonment for not more than 10 years.

Art. 5

Jurisdiction for offences set out in this Bando shall lies with the Tribunali Militari di Guerra.

Art. 6

This Bando shall be published through the section of the Official Gazette. Headquarters 8th. Ar.

2 Feb. 1943

M.G.S. - 15/6/42.

Declassified E.O. 12356 Section 3.3/NND No. 785016

Administration of Military Justice in Territory declared to be or considered as being in a State of War.

Ref: Arts. 17 and 20 Military Penal Code of War.

ORDER

Art. 1

When the act of making away with (alienazione) arms or munitions, as dealt with in Art. 164 of the Military Penal Code for Peace is committed in any territory declared to be or considered as being in a state of war, or outside the limits of such territory is committed by any soldier belonging to any command, corps, unit or service corps, the penalty shall be military imprisonment (reclusione militare) for not less than five years.

If the offence is a particularly serious one by reason of the attendant circumstances, or the form, or by reason of the nature, type and quantity of the articles made away with, the penalty shall be death.

The penalties established by the two preceeding paragraphs shall also apply when it is a case of making away with arms or articles constituting military armament however the accused may have obtained them.

Art. 2

When any act of making-away with articles of clothing or military equipment, as set out in Art. 165 of the Military Penal Code of Peace, is committed in such circumstances, place or by such persons indicated above in the first paragraph of the preceding article, the penalty shall be military imprisonment for not more than three years.

Where aggravating circumstances are present as set out in the second paragraph of the preceeding article the penalty shall be military imprisonment for from one to ten years.

Art. 3

Declassified E.O. 12356 Section 3.3/NND No. 785016

Art. 3

The penalties established by the two preceding articles shall apply to any person who in hereby declared to be or considered as being in a state of war buys (acquista) or retains by whatsoever title, any of those things that are the subject of the offences set out in the said articles.

Art. 4.

Whenever instigates a soldier to commit any of the offences set out in Articles 1 and 2 of this Decree shall be punished, if the instigation is not accepted, or if it is accepted but the offence is not committed, by military imprisonment for not more than 10 years.

Art. 5

Jurisdiction for offences set out in this Decree shall lie with the Tribunals Militari di Guerra.

Art. 6

This Decree shall be published through the medium of the Official Gazette.

Headquarters FF. AA.

2 Feb. 1943

[illegible]

F.G.21. - 25/6/44.

1 56

Declassified E.O. 12356 Section 3.3/NND No. 785016

Folder

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

GRG/pa

55

4 June 1944

REFERENCE : ACC/4011/3/L.

SUBJECT : Wounds inflicted on Allied Personnel by Italians.

TO : R.L.O. (Trna RG) Region 6.

1. Reference your letter L/1421 of 29 May 1944.

2. I suggest that you contact your local D.D.M.S. with a view to having A.A.I. instructions of 13 May 1944 extended to cover the Allied Garrison in Sardinia.

GERALD R. UPJOHN,
Colonel
Chief Legal Officer

55

2147

Declassified E.O. 12356 Section 3.3/NND No. 785016

40(5) ✓ 54

HEADQUARTERS
ALLIED CONTROL COMMISSION
REGION 6

29th May 1944.

To : Headquarters, Allied Control Commission, (Rear) Legal Sub-Commission.

Subject : Wounds inflicted on Allied Personnel by Italians.

Reference : L/1421.

52

Reference your ACC/4011/3/L dated 22nd May 1944 the A.A.I. Instructions copy of which is enclosed does not appear to apply to the Allied Garrison in Sardinia. As the Instruction is a useful one from the point of view of the Italian Courts may I be informed, please, whether it can be extended to cover Sardinia?

For the Regional Commissioner,

LEGAL SUB COMMISSION
CLO
DCLO
Chief Counsel
CLO
Section
RCRA/ajes
RMS
Corr none

apply

R. G. S. Alexander 1.54

R.G.S.ALEXANDER.
Major.
Regional Legal Officer.

With Ltrs. to Regional Commissioner ~~and copy to Hq A.A.I.~~ to Reg 6 suggesting they contact the local P.D.M.S.

Declassified E.O. 12356 Section 3.3/NND No. 785016

FILE.

NAVY DEPARTMENT
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

52

22 May 1944.

AGO/4011/3/L.

SUBJECT : Warning notice on Allied Personnel by Italians.

TO : Regional Legal Officers (Exec: Regional Commissioners), Regions I, II, III, VI and VII.

1. Reference our directive AGO/4133/L of 1 May 44 and Appx "A" thereto.

2. Enclosed new copies of Instruction AAI/3021/A (FO) of 15/3/44 which has now been issued by the military authorities.

3. Will you please take any necessary distribution to Provincial Legal Officers?

1 53

C. B. Deacon,
Colonel,
Senior Legal Officer.

Copy for: Executive Regional Officer
Regions IV and V.

(51)

SUBJECT : Allied Mil Personnel suffering from wounds caused by Italian Civilians or Military

HQ ALLIED ARMIES IN ITALY.

AAI/5081/A(PS)

13 May 44.

'A' HQ 1 District
'A' HQ 2 District
'A' HQ 3 District

1. In unoccupied territory (i.e. below the Northern bdys of the Provinces of SALERNO, POTENZA and BARI), ITALIAN civilians and soldiers committing offences are normally tried by the ITALIAN Courts.

2. In the event of members of the Allied Forces being admitted to Hospitals, CCS or the like, suffering from wounds not received in combat, but which are suspected to have been inflicted by Italians or soldiers, the following procedure will be adopted to assist the Italian Judicial officials in their task of trying and sentencing offenders:

(a) The Senior Med Offr of the Hospital concerned will render a report (in duplicate) as quickly as possible to the nearest Provincial Commissioner ACC, containing:

(i) Full name, no., rank and regt/corps of the wounded soldier,

(ii) Description of wound (stating depth and probably cause),

(iii) Date of wound and number of days necessary for its cure specifying whether less than 10 days or more than 10 days, and less than 40 days or more than 40 days,

(iv) Whether the accused has been or is in danger of his life as a result of the wound,

(v) If it can be said that the wound will cause any permanent disability to, or loss of, any limb, sense or organ.

(b) In the event of a report having been submitted stating that a wound is curable within 40 days and either the cure is not completed within this period, or other complications set in, a further report should be submitted to the Provincial Commissioner.

(c) If death results from such wounds and the autopsy is performed by Allied Mil Authority, copies of the autopsy report and hospital case record (giving details of the progress of the wounded man, treatment etc) will be sent to the Provincial Commissioner.

3. 3. The reports, statements, case records, etc. referred to in para 2 above, will be forwarded direct to the Regional Commissioner concerned.

4. It is emphasized that the above instructions do NOT apply in occupied territory where such offenders are tried before AMG Courts.

5. Sufficient copies are enclosed for distribution down to all Med units affected.

Declassified E.O. 12356 Section 3.3/NND No. 785016

'A' HQ 2 District
'A' HQ 3 District

1. In unoccupied territory (i.e. below the Northern bdys of the Provinces of SALERNO, POTENZA and BARI), ITALIAN civilians and soldiers committing offences are normally tried by the ITALIAN Courts.

2. In the event of members of the Allied Forces being admitted to Hospitals, CCS or the like, suffering from wounds not received in combat, but which are suspected to have been inflicted by Italians or soldiers, the following procedure will be adopted to assist the Italian Judicial officials in their task of trying and sentencing offenders:

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(ii) Description of wound (stating depth and probably cause),

(iii) Date of wound and number of days necessary for its cure specifying whether less than 10 days or more than 10 days, and less than 40 days or more than 40 days,

(iv) Whether the accused has been or is in danger of his life as a result of the wound,

(v) If it can be said that the wound will cause any permanent disability to, or loss of, any limb, sense or organ.

(b) In the event of a report having been submitted stating that a wound is curable within 40 days and either the cure is not completed within this period, or other complications set in, a further report should be submitted to the Provincial Commissioner.

(c) If death results from such wounds and the autopsy is performed by Allied Mil Authority, copies of the autopsy report and hospital case record (giving details of the progress of the wounded man, treatment etc) will be sent to the Provincial Commissioner.

3. 3. The reports, statements, case records, etc. referred to in para 2 above, will be forwarded direct to the Regional Commissioner concerned.

4. It is emphasised that the above instructions do NOT apply in occupied territory where such offenders are tried before AMG Courts.

5. Sufficient copies are enclosed for distribution down to all Med units affected.

/s/
Major-General
Chief Administrative Officer.

HMF/FA

Copies to: CG. PBS
Executive Commissioner, ACC.
(your 275/10/CA dated 2 May 44 refers)
AG(US), AAI,
Med

Sent for ~~reproduction~~ micrographing 1600hrs. 22/5/44
50 copies

Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

2151

Title

(50)

HEAD HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

ACC/4011/3/L. /rlp.

20 May 1944.

SUBJECT : Confiscation of Allied Property.

TO : Regional Legal Officer (RLO; Regional Commissioner), Region V.

1. Reference RS/511/2 of 15 May 1944.

2. The provisions of Article 11 of Consolidated Instructions governing procedure in ACC Courts. The provisions of the Memorandum of the Minister of Justice govern procedure in Italian Courts.

1 51

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

Declassified E.O. 12356 Section 3.3/NND No. 785016

21532

4011/43

Legal S.C. 196/49

T : C.L.O. H.Q. A.C.C.

FROM : H.Q. Region 5 A.M.G.

SUBJECT: Confiscation of Allied Property.

REF : R5/511/2.

32

15 May 1944.

1. Ref. your ACC/4011/L of 9 May enclosing circular on confiscation of stolen Allied Property by the Ministry of Pardon and Justice, the procedure envisaged by the Minister under which property is returned before trial to a military unit with or without a guarantee for its production in Court appears to be contrary to the procedure laid down in Art. II of the Consolidated Instructions.

2. May this H.Q. be informed please which of the procedures is intended to be followed:
(a) in A.M.G. Courts,
(b) In Italian Courts.

LEGAL SUB-COMMISION	
CLO	
DCLO	
Chief Counsel	
CJO	

For the Regional Commissioner

W. E. BEIRENS
Lt. Colonel
R.L.O.

4632

Declassified E.O. 12356 Section 3.3/NND No. 785016

4011/3 ✓

(48)

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

Ref/275/14/CA. 16 May 1944.

SUBJECT: Wounds inflicted on Allied Personnel by Italians.

TO : Admin Section - For Legal Sub-Commission.

(46)

1. Reference your ACC/4011/3/L of 29 April 1944, there is forwarded copy of a letter sent by HQ. A.A.I. to Nos.1, 2 and 3 Districts (ref.AAI/5081/A(PS) dated 13 May 1944).

2. It will be observed that sufficient copies were forwarded to Districts for distribution to all Medical Units affected.

LEGAL SUB-COMMISION

CLO
DCLO
Chief Counsel
CJO
Italian Section
JSR/RAC.
CLERKS
Capt Ivone

for
NORMAN E. FISKE,
Colonel,
Deputy Executive
Commissioner.

Spark. 49

Declassified E.O. 12356 Section 3.3/NND No. 785016

40113

47

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

Ref/319/32/CA. 14 May 1944.

SUBJECT: Theft by Italian Civilians.

TO : Admin Section - For Legal Sub-Commission.

The attached copy of letter received from HQ. A.A.I. reference AAI/5092/A(PS) of 10 May 1944 is forwarded for your information.

LEGAL SUB COMMISION
LO
DCLO
Chief Counsel
CJO
Italian Section
CL RKS

NORMAN E. FISKE,
Colonel,
Deputy Executive
Commissioner.

48

Declassified E.O. 12356 Section 3.3/NND No. 785016

COPY

46

SUBJECT: Theft by Italian Civilians.

H.Q. ALLIED ARMIES IN ITALY.
AAI/5092/A(PS).
10 May 44.

Executive Commissioner, A.C.C.

Ref 319/27/CA of 4 May 44.

22 of Policy file

1. I am directed to refer to para 4 of your letter of 4 May 44 and to say that the CAO is in agreement with the suggestion made.

2. Dist Comds have been instructed to bring to notice any cases which they consider, for special reasons, should be tried by an Allied Military Court.

(Signed) C.M.PATON,
Brigadier,
D.A.G.

CMP/JLR.

47

Declassified E.O. 12356 Section 3.3/NND No. 785016

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

Ref/275/12/CA 4 May 1944

SUBJECT: Wounds inflicted on Allied Personnel by Italian

TO : Admin. Section (for Legal Sub-Comm.)

1. Reference your ACC/404/3/L of 29 April and ACC/4129/L of 28 April 1944, letters as drafted by you to D.M.S., Hq. AAI and MGS AFHQ, have been signed by the Executive Commissioner and dispatched.

2. Copies of replies will be forwarded to you on receipt.

for NORMAN E. FISKE
Colonel
Deputy Executive
Commissioner

46

4013 Legal 4100 44

Presidenza del Consiglio dei Ministri

Gabinetto

DISPATCHED ADJ SEC. 5 MAG 1944 REAR HQ. A.C.C.

Prot. N. 4129/3

Risposta alla lettera N. ..... Salerno, li 3 maggio 1944

del .....

OGGETTO

Patrocinio in giudizio delle Forze militari alleate e dei loro appartenenti.

Judicial protection of allied military forces

Alla COMMISSIONE ALLEATA DI CONTROLLO

S A L E R N O

e per conoscenza:
Al MINISTERO DI GRAZIA E GIUSTIZIA = SALERNO
(rif.a nota n.66 del 27-4-1944)

Il Ministero di Grazia e Giustizia informa che codesta Commissione di Controllo ha fatto presente la opportunità che il patrocinio degli interessi delle Forze Militari Alleate e dei loro appartenenti nei giudizi penali in cui siano costituiti parte civile venga affidato alla Avvocatura dello Stato.

Questa Presidenza, cui spetta provvedere al riguardo, per essere l'Avvocatura dello Stato alla sua dipendenza, aderisce di buon grado alla richiesta. E poichè è attualmente allo studio un provvedimento legislativo per disciplinare il funzionamento della Avvocatura Generale dello Stato e degli Uffici Distrettuali della Avvocatura dello Stato, si curerà di inserirvi le disposizioni a tal fine occorrenti.

Si fa riserva pertanto di ulteriori comunicazioni, non senza assicurare che al provvedimento in parola verrà dato corso con la maggiore possibile urgenza.

Declassified E.O. 12356 Section 3.3/NND No. 785016

Gabinetto

DISPATCHED ADJ SEC
5 MAG 1944
REAR HQ. A.C.C.

Prot. N. 4129/3

Risposta alla lettera N. ..... del .....

Salerno, li 3 maggio 1944

OGGETTO

Patrocinio in giudizio delle Forze militari alleate e dei loro appartenenti.

Judicial protection of allied military forces

Alla COMMISSIONE ALLEATA DI CONTROLLO
SALERNO

e per conoscenza:
Al MINISTERO DI GRAZIA E GIUSTIZIA = SALERNO
(rif.a nota n.66 del 27-4-1944)

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Questa Presidenza, cui spetta provvedere al riguardo, per essere l'Avvocatura dello Stato alla sua dipendenza, aderisce di buon grado alla richiesta. E poichè è attualmente allo studio un provvedimento legislativo per disciplinare il funzionamento della Avvocatura Generale dello Stato e degli Uffici Distrettuali della Avvocatura dello Stato, si curerà di inserirvi le disposizioni a tal fine occorrenti.

Si fa riserva pertanto di ulteriori comunicazioni, non senza assicurare che al provvedimento in parola verrà dato corso con la maggiore possibile urgenza.

IL SOTTOSEGRETARIO DI STATO

Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

file

43

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

GRU/ap

ACC/4011/3/L

29 April 1944.

SUBJECT : Wounds inflicted on Allied personnel by Italians.

TO : Executive Commissioner.

1. I shall be obliged if Brigadier Lush will sign a letter on the lines of the attached draft (which is self explanatory) to D. M. S., HQ., A. A. I.

2. May I please be supplied with a copy of the letter signed by Brigadier Lush and of any replies thereto.

G. R. UPJOHN,
Colonel,
Chief Legal Officer.
1 · 44

See also folios 45 and 43

Declassified E.O. 12356 Section 3.3/NND No. 785016

42

HEADQUARTERS
ALLIED CONTROL COMMISSION
APO 394

GRU/gaf

April 1944

SUBJECT: Allied Military personnel suffering from wounds caused by Italian civilians or Military.

TO : HQ AAI (DMS).

1. The Allied Control Commission has given much attention to securing that offences (stabbing, wounding and the like) against members of the Allied Forces by Italians in unoccupied territory (where AMG Courts do not sit except to try cases of exceptional importance) shall be treated with maximum severity by the Italian Penal Courts and they are receiving good cooperation from the Italian Ministry of Justice in this respect. The latter have represented, however, that in order to impose adequate sentences certain medical particulars are required.

2. I have to ask you, therefore, in order to assist the Italian Judicial Officials in the task of trying and sentencing offenders of this class, to issue directives to medical personnel in unoccupied territory to the following effect:

(a) Where the members of the Allied Forces are admitted to hospitals, C.C.S. or the like suffering from wounds not received in combat but which are suspected to have been inflicted by Italian civilians or soldiers, the Senior Medical Officer of the hospital will render a report in duplicate as quickly as possible to the nearest Provincial Commissioner, A.C.C.

(b) This report will contain:

(i) Full name, number, rank and regiment or corps of the wounded soldier.
(ii) Description of wound (stating depth and probable cause).
(iii) Date of wound and number of days necessary for its cure specifying whether less than 10 days or more than 10 days and less than 40 or more than 40 days.
(iv) Whether the accused has been or is in danger of his life as a result of the wound.
(v) If it can be said that the wound will cause any permanent disability to any limb, sense or organ or the loss of any limb, sense or organ.

43

Sub-paras (iii), (iv) & (v) are required by the Italian Courts to determine by Italian law the sentence which may be imposed.

Declassified E.O. 12356 Section 3.3/NND No. 785016

41

(c) In the event of a report having been submitted stating that a wound is curable within 40 days and either the cure is not completed within this period or other complications set in, a further report should be submitted to the Provincial Commissioner.

(d) If death results fromsuch wounds and the autopsy is performed by Allied Military Authority, copies of the autopsy report and hospital case record (giving details of the progress of the wounded man, treatment, etc.) will be sent to the Provincial Commissioner.

(e) The reports, statements, case records, etc., referred to in Subparas (a), (b), (c) and (d) can conveniently be sent through the medium of the Military Police who are working in close liaison with Provincial Commissioners in the apprehension and trial of offenders.

3. The above procedure applies only in unoccupied territory (i.e. below the northern boundaries of the Provinces of Salerno, Potenza and Bari) where offenders are (save in exceptional circumstances) tried by the Italian Courts. It does not apply in occupied territory where such offenders are tried before AMG Courts.

Executive Commissioner
Allied Control Commission.

This was sent to Region
as Appdx "A" to directive on
Legal Liaison Officers duties
A.C./4135/L dated 1st May 44

1 42

File 4011/3

(40)

Information which military hospitals must record and send to the Police in anycase where an Allied soldier is wounded or has died from wounds.

(1) Whenever there shall be admitted to any hospital or to any treatment centre ~~entity~~ for the cure or first-aid treatment of wounds, sick persons, convalescent patients or the like, any soldier (or any person of military status) who has been wounded through the discharge of arms, through knifing, stabbing or indeed through any physical attack (clubbing and such) and it shall be proved or suspected that the person responsible for the wounding is an Italian civilian or Italian soldier, the head or the director of the hospital or center must send as quickly as possible a report setting out the facts to the Italian judicial authority.

(2) The report (statement of facts) must contain: the surname, name and paternity of the wounded soldier (showing the arm, regiment, division etc. to which he belongs) description of the wound (specifying its nature and depth, the weapon with which it was caused etc.) the date of the wound, how many days it will take to cure it (specifying whether less than 10 days or more than 10 days and less than 40 or more than 40 days), if the soldier is or has been in danger of his life as a result of the wound and if it can be foreseen that the wound will produce some permanent weakening of a sense or of an organ, or some incurable infirmity or the loss of a sense or of an organ or of a limb etc.

(3) Whenever the report sent to the judicial authority states that the wound is curable within 40 days but the cure is not completed within that period or is followed by complications as in para. 2 above, a further report must be sent to complete the first.

(4) Whenever a soldier shall die as a result of wounds, the head or director of the hospital, centre or convalescent home etc. must at once give notice to the Procuratore del Re so that the post-mortem examination (autopsy or necroscopy) may proceed.

If instead the autopsy shall be performed by members of the Allied

Declassified E.O. 12356 Section 3.3/NND No. 785016

status) who has been wounded through the discharge of arms, through knifing, stabbing or indeed through any physical attack (clubbing and such) and it shall be proved or suspected that the person responsible for the wounding is an Italian civilian or Italian soldier, the head or the director of the hospital or center must send as quickly as possible a report setting out the facts to the Italian judicial authority.

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(4) Whenever a soldier shall die as a result of wounds, the head or director of the hospital, centre or convalescent home etc. must at once give notice so that the post-mortem examination to the Procuratore del Re (autopsy or necroscopy) may proceed.

If instead the autopsy shall be performed by members of the Allied armed forces copies of the autopsy statement and of the hospital case record (information on the progress of the ailment, treatment etc) must be sent to the Italian judicial authority.

(5) The transmission of the report, statements and case record as in paras 1, 2, 3 & 4 above can be made by means of the Allied police who will contact the Italian police (Questura or Carabinieri).

Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

39

Notice of each, as in para 4 above, must be given by means of a telegram or urgent message by hand, directly to the Procuratore del Re or the Pretor.

40

2163

Declassified E.O. 12356 Section 3.3/NND No. 785016

38 COPIA

Notizie che gli ospedali militari ed i luoghi assimilati devono registrare e trasmettere alla Polizia in ogni caso de Militari Alleati feriti o morti per ferite.

I - Allorche' in uno ospedale ovvero in un locale di ricovero o di cura o di tappa per feriti, ammalati, convalescenti e simili, entri un Militare (o una persona ad esso assimilata), che sia stato ferito, con armi da sparo, da taglio, da punta ovvero con corpi contundenti (bastoni e simili), e siavi prova o sospetto che autore della lesione sia un civile o militare italiano; il capo o dirigente dell' ospedale o ricovero deve al piu' presto trasmettere all'autorita' giudiziaria italiana un referto ossia relazione.

2. Il referto (relazione) deve contenere: il cognome, il nome e la paternita' del Militare ferito (indicando l'arma, il reggimento, il reparto ecc. a cui appartiene), la descrizione delle lesioni (specificandone la natura e profondita', l'arma che le produsse ecc), la data delle lesioni, in quanti giorni queste potranno guarire (precisando se in meno di 10, o se piu' di 10 e meno di 40, o se piu' di 40 giorni), se il Militare sia o sia stato in pericolo di morte a causa delle lesioni, e se sia prevedibile che le lesioni potranno produrre debilitamento permanente di un senso o di un organo, ovvero malattia insanabile, ovvero perdita di un senso o d'un organo o di un arto, ecc.

3. Qualora il referto trasmesso all'autorita' giudiziaria si riferisca a lesioni guaribili entro i 40 giorni, e invece la guarigione non segue in detto termine o si avverino conseguenze come al n. 2, e' necessario trasmettere altro referto a complemento del primo.

4. Qualora il Militare muoia in conseguenza delle ferite, il capo o dirigente dell'ospedale, locale di ricovero, convalescenza, ecc. deve immediatamente darne notizia al Procuratore del Re', affinche' possa procedere alla sezione del dadavere (autopsia o necroscopia).

Se invece l'autopsia sia eseguita da organi delle Forze Armate Allaate, dovranno essere trasmessi all'Autorita' Giudiziaria Italiana copies del verbale di autopsia e della cartel a clinica ospedaliera (notizie sul decorso della malattia, cure prodigate, ecc).

5. La trasmissione di referto, verbale e cartella clinica di cui ai nn.1;2;3 e 4 potranno essere fatte a mezzo della Polizia Alleata, che si rivolgera' alla Polizia Italiana (uestura o RR.CC).

La informazione di morte; di cui al n. 4, dovra' essere data, mediante telegramma o avviso urgente recapitato a mano, direttamente al Procuratore del Re' o al Pretore.

a copy of
Note also 1) / the Medical Case Sheet
AFI 1237 shen should be made
available
2) If the patient is evacuated, a note

Declassified E.O. 12356 Section 3.3/NND No. 785016

37

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

ART/gmc

ACC/A011/3/L 30 April 1944

SUBJECT: Trial of Cases affecting Allied Property.

TO : RLO (thru HC) Region 1.

1. Ref your RLE 013.07/FLV dated 24 April 44.

2. The issuance by the Italian Government of the necessary Decree-Law is awaited daily, and will in all likelihood appear in the forthcoming issue of the "Gazzette Ufficiale". 38

A. R. THACKRAH, Major
for Chief Legal Officer.

Declassified E.O. 12356 Section 3.3/NND No. 785016

4011/3

36

ALLIED CONTROL COMMISSION
SICILY REGION HEADQUARTERS
APO 394

File : RLE 013.07/FLV

24th April 1944

SUBJECT : Trial of cases affecting Allied Property by Allied Courts.

TO : Legal Sub-Commission - A.C.C. Headquarters.

1. On or about two weeks ago in the absence of the Procutore Generale a member of his staff brought to the office a telegram which had been received from the Italian Minister of Justice. The telegram read to the effect that, pending the issuance of a decree authorising Italian Courts to try cases affecting allied interests, the Procuratore Generale should contact the Regional Legal Officer and agree upon a plan for the trial of cases pending. The representative then asked for a letter authorising the trial of these cases by the Italian Courts which I immediately issued under my signature as Regional Legal Officer.

2. The Procuratore Generale now informs me that in the absence of a decree the Italian Courts have no jurisdiction to try these cases. In the meantime they are sending them to the Giudice Istruttore, with the hope that by the time they are ready for trial the new decree will be issued.

3. There are a large number of cases awaiting trial and the local Italian Court authorities are seeking A.C.C. intervention to expedite the issuance of the new decree.

For Lt. Colonel A.N. HANCOCK:

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

37

js.

857

Declassified E.O. 12356 Section 3.3/NND No. 785016

(File 401.3)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394

35

ACC/4011/L

29 April 1944

SUBJECT : Thefts committed by soldiers handling Allied Property.

TO : H. E. The Minister of War.

1. Please find enclosed a memorandum from General Mariotti in connection with the procedure now in force in respect of the above type of offence .

2. It appears to this Sub-Commission that thefts of articles belonging to the Allied Forces and valued at less than two hundred liras are obviously the most numerous and therefore steps should be taken to discourage as much as possible, the authors of such offences.

3. The regulations in vigour in the Italian Army do not provide for any penal proceedings against these offenders, but only disciplinary measures including detention up to a month and a deduction of pay. These sanctions become inadequate when it is remembered that through each theft is intrinsically of small value the aggregate reaches astronomic figures on the black market, and therefore the guilty party is manifestly encouraged to carry on with such a lucrative business.

4. It is therefore suggested that the powers of disciplinary courts be increased in order to enable them to sentence such offenders to a maximum of three months imprisonment with 15 days on bread and water.

5. It is understood from the Procuratore Militare Generale that the powers of the disciplinary courts can be so increased by Ministerial directives.

6. It is hoped that your Excellency will agree with the suggestions set out above and with issue the necessary instructions to implement them at your early convenience.

G. R. U. JOHN,
Colonel,
Chief Legal Officer. 36

Copy to : LO Apulia (thru RLO) for information P.G.M.
Minister of Justice .
File ACC/4011/3/L .

Declassified E.O. 12356 Section 3.3/NND No. 785016

STATO MAGGIORE REGIO ESERCITO
Uff. Segreteria e Pers.

(34)

N.91/712/9/5 P. di prot. P.M. 151 li 4 febbraio 1944
OGGETTO: Furti consumati da parte di militari addetti alla manovalanza.

I N D I R I Z Z I

..... Omissis.....

Si verificano numerosi furti da parte di militari addetti ai lavori di manovalanza.

Poichè la maggior parte di questi reati arrecano alla parte lesa un danno di lieve entità, non si reputa opportuno reprimerli mediante irrogazione di sanzioni penali, anche in considerazione dell'ingente lavoro da cui i Tribunali Militari sono oberati.

Pertanto si dispone che gli autori di furti il cui importo non ecceda le lire 200, siano puniti, oltre che disciplinarmente, con una trattenuta sulla indennità giornaliera consistente in una somma di danaro, da computarsi sulle competenze maturate e da maturarsi, per un ammontare pari al valore delle cose sottratte.

L'importo di tali trattenute sarà destinato ad incrementare il fondo assistenziale a disposizione dei reparti.

Nel caso però che il furto dovesse avere un valore eccedente le lire 200 l'imputato sarà denunziato al Tribunale Militare competente che procederà nei suoi confronti con rito sommario (art. 379 C.P.M.P.); e ciò per appagare anche le aspirazioni di giustizia degli alleati, interessati al riguardo, i quali esigono dai nostri Tribunali l'uso di una procedura possibilmente rapida.

IL GENERALE DI DIVISIONE
SOTTOCAPO DI S.M.
MARIOTTI

35

Declassified E.O. 12356 Section 3.3/NND No. 785016

File

(33)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

HHW/gmf

ACC/4011/3/L. 25 April 1944

SUBJECT: Theft by Italian Civilians.

TO : Deputy Executive Commissioner.

(30)

1. Reference your Ref/319/16/CA dated 22 April 1944.

2. The policy of the Chief Commissioner is that only in exceptional cases will Allied Military Courts sit in unoccupied territory. In this connection please see my letter of 22 April 1944 to the Executive Commissioner (ref. ACC/4129/L) which amplifies this policy.

3. Since I wrote the above mentioned letter Col. Upjohn has returned from a tour of Region 2 when he made an extensive and detailed investigation of the operation of the Italian Courts in dealing with thefts of Allied property, especially in Apulia. He is satisfied that in Taranto and Brindisi the system whereby reports of all cases affecting Allied interests are received and their progress watched through the Courts is working well and that generally speaking entirely adequate sentences are bring imposed. In a few cases inadequate sentences may have been imposed and these individual cases are taken up with the local authority by the Legal Liaison Officer. The Legal Liaison Officer makes weekly reports to the DAPM at Brindisi and Taranto and Col. Upjohn understands that they are well satisfied with the progress that is being made.

4. In Bari the situation is not quite so satisfactory owing to the heavy arrears of cases there but the same system is being laid on there as is already working in Taranto and Brindisi and Major Cohen, the Legal Liaison officer, is working very closely with Col. Blair, the DPM at Bari. In Col. Upjohn's opinion this system must be given a chance to operate and he proposes to pay another visit to Bari in the near future to study its operation. Col. Upjohn's general conclusion was that the Italians generally realised the seriousness of the situation and are grappling with the problem as well as can be expected.

5. May I point out that although recommendations for tightening up the distribution system at Bari with a view to preventing thefts were made by the C.I.D. Section XII Air Force as long ago as 15 Feb. Col. Upjohn could not discover that any of them had been put into effect.

(34)

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

Declassified E.O. 12356 Section 3.3/NND No. 785016

26. 4.11/3

MINISTERO DI GRAZIA E GIUSTIZIA

DIREZIONE GENERALE AFFARI PENALI
UFFICIO I°

Protoc. N. 25640

Risp. al foglio N.

del

Sal erno li, 20 APR. 1944

OGGETTO: Esito di procedimenti penali in danno dei Governi Alleati e delle Loro FF.AA.

ALLA COMMISSIONE ALLEATA DI CONTROLLO
(Sottocommissione Legale)

S A L E R N O

In relazione al foglio dell'8 s.m. n.ACC/4011/L, rimetto copia della nota inviata a questo Ministero dal Procuratore del Re di Matera in esito alla richiesta di notizie circa i procedimenti penali a carico di Calabrese e Maniconi.

Mi riservo di restituire l'elenco rimesso con la nota sopradistinta non appena mi saranno pervenute le altre informazioni dalla Procura di Bari in ordine ai procedimenti segnati nell'elenco stesso.

IL MINISTRO

Grandi

33

Declassified E.O. 12356 Section 3.3/NND No. 785016

(85)
(31)

A S.E.

IL MINISTRO DI GRAZIA E GIUSTIZIA

DIREZIONE GENERALE ISTITUTI PREVENZIONE E PENA

S A L E R N O

Si rende, informando che i due procedimenti non sono stati mai pendenti presso quest'uffi_ cio.

Il Calabrese ed il Manicone erano detenuti in queste carceri a disposizione dell'Autorità Alleata e sono stati scarcerati in data di ieri avendo quell'Autorità comunicato non do versi più procedere perchè " non v'ha evidenza di prove ".

Matera 29 Marzo 1944

IL PROCURATORE DEL RE

f.to Michele Toriello

P.C.C.

Salerno li 18 Aprile 1944

IL SEGRETARIO ADDETTO ALLA DIR.GEN.AFF.PENALI

32

Declassified E.O. 12356 Section 3.3/NND No. 785016

4011/3 v. 3393

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

30

Ref/319/16/CA

22 April 1944

SUBJECT: Theft by Italian Civilians.

TO : Admin. Section (for Legal Sub-Commission)

Folio 21 of Record

Ref. letter AAI/5092/A(PS) of 16 April, copy attached, and para 2 of letter 283/42/CA of 5 March 1944 (folio 14).

Filed

It would be appreciated if you would give this matter your consideration and forward your recommendation for dealing with this type of crime at present being tried by Italian courts in King's Italy.

For Signature

NORMAN E. FISKE
Colonel
Deputy Executive
Commissioner

Copy to:
AAI (Ref. your AAI/5092/A(PS) of 16 April.

31

Declassified E.O. 12356 Section 3.3/NND No. 785016

3353

SUBJECT:- Theft by Italian Civilians. RESTRICTED

HQ, ALLIED ARMIES IN
I T A L Y.

AAI/5092/A(PS) (29)

16 April 1944

Executive Commissioner,
Allied Control Commission.

Ref HQ ACC 283/42/CA of 5 Mar 44.

1. It has come to notice that thefts by Italian Civilians of the property of the Services are still on the increase and that the situation is serious. District HQs represent that the sentences passed by Italian Courts on offences are still in many cases, extremely light.

2. Would it be possible for an instruction to be issued that in Unoccupied Territory all serious charges of theft against Italian Civilians will be held to come under para 2 of your above-quoted letter, and will be tried by Allied Military Court.

CMP/GG.

Brigadier,
DAG.

1 30

per ref.

M I N I S T E R O D I G R A Z I A E G I U S T I Z I A

DIREZIONE GENERALE AFFARI PENALI
Ufficio IQ

28

Prot.n.25216

Div.n.....

Salerno li, 4 - APR. 1944

del 4.3.44....

OGGETTO: Illegal use of military motor vehicles. Penal Proceedings against

Indebito uso di autoveicoli militari - Procedimento penale contro CASCONE Felice, ARSANO Salvatore e RUGGIERO Salvatore.-

ALLA COMMISSIONE ALLEATA DI CONTROLLO

(Sottocommissione Legale)

S A L E R N O

In relazione alla nota sopraindicata, si rivela che il procedimento penale indicato in oggetto è stato definito con sentenza del Tribunale di Salerno, in data 24-3-1944, con la quale Ruggiero e L'Arsano sono stati condannati ciascuno ad anni uno e mesi otto di reclusione e L.1000 di multa, mentre il Cascone è stato assolto per insufficienza di prove.

Per l'altro procedimento a carico di Vallone Pietro ed altri, si comunica che il relativo giudizio è stato rinviato a 5 maggio p.v..
a suo tempo, circa l'esito dell'esibu.-

See folio 16

IL MINISTRO

Declassified E.O. 12356 Section 3.3/NND No. 785016

4011/3 fb

27

OSTUNI, 24 marzo 1944

R. PROCURA GENERALE MILITARE
PRESSO LA
SEZIONE DI TRIBUNALE SUPREMO MILITARE
PER LE TERRE LIBERATE

Al REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
A.P.O. 394

Prot. N. 25 Gab. Allegati
Risposta al foglio del 18 marzo 1944
N. ACC/ 4011/L

OGGETTO: Direttive ai Tribunali Militari Italiani nei processi per offese concernenti gli interessi alleati.

Al MINISTERO della GUERRA
GABINETTO P.M. 107
(relazione a nota n.12 Gab. del 12 marzo, oggetto:"Richiesta degli Alleati)

A S.E. il PRESIDENTE del TRIBUNALE SUPREMO MILITARE
OSTUNI
(risposta a nota 18/U.P. del 22 corr.)

L'Eccellenza il Generale Mercalli, Presidente di questo Tribunale Supremo, l'8 corrente mi ha comunicato le richieste formulate nella riunione del 6 corrente ed in data 22 la nota N°4011 del 18 marzo, pari oggetto.

Prego anzitutto prendere nota che è già in funzione questo Ufficio, che, a sensi dell'Ordinamento Giudiziario Militare, approvato con R.D. 9 settembre 1941, N° 1022, ha la competenza sulle questioni in esame, onde tutte le richieste possono essere rivolte direttamente.

Lo scrivente si è vivamente interessato di quanto ha formato oggetto delle decisioni della sottocommissione legale ed in proposito ha già avuto diversi colloqui col Maggiore Adriano Franclin, Commissario Legale per le Puglie presso A.C.C. in Taranto.

Si è così potuto constatare:

a) che in diversi Tribunali Militari da tempo si è applicato l'articolo 15 codice penale militare di guerra nel senso richiesto.

Difatti nel Tribunale Militare di Bari fin dal 1 gennaio è in funzione una sezione speciale incaricata dello espletamento di tutte le denunzie per reati in danno degli alleati, e che dal 1 gennaio al 10 corrente ha rinviato a giudizio ben 879 imputati dei quali sono stati giudicati 419 col seguente risultato: 346 condannati, 73 assolti;

b) che le carceri disponibili sono stipate di detenuti ed inadeguate

Trattare per ogni lettera un solo argomento ed indicare nella risposta il numero di protocollo e l'ufficio cui si risponde.

Declassified E.O. 12356 Section 3.3/NND No. 785016

Prot. N. 25 Gab. Allegati

Risposta al foglio del 18 marzo 1944

N. ACC/ 4011/L

A.P.O. 394

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b) che le carceri disponibili sono stipate di detenuti ed inadeguate alle necessità attuali;

c) che al Tribunale Militare di Taranto e Sezione di Lecce vennero sollecitamente impartite disposizioni confermi alle richieste;

Trattare per ogni lettera un solo argomento ed indicare nella risposta il numero di protocollo e l'ufficio cui si risponde.

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d) che un ulteriore sviluppo di attuazione delle richieste trova non lieve ostacolo nella disposizione dell'articolo 3 del R.D. Legge 11 febbraio u.s. pubblicato nella Gazzetta Ufficiale n.7 che tassativamente stabilisce la competenza dei Tribunali Militari Alleati per i reati commessi in danno degli Alleati.

Il Maggiore Franclin mi ha assicurato di avere prospettato la grave questione al Comando della Zona n.2 e che già era a conoscenza che è in corso un decreto che chiarisce la portata del citato articolo 3; di tale decreto però fino a ieri non aveva ricevuto il testo.

Inoltre lo scrivente con nota n. I2/Gab. del I2 marzo ha riferito in merito al Ministero della Guerra.

In conseguenza non è stato possibile dare complete direttive ai Tribunali Militari dipendenti da questo Ufficio e sarà provveduto sollecitamente ed in modo adeguato alla importanza della questione appena precisato quale efficacia deve avere il citato art. 3.

IL PROCURATORE GENERALE MILITARE ff.

(Ten. Gen. Francesco Traina)

Declassified E.O. 12356 Section 3.3/NND No. 785016

4011/file

(26)

MINISTERO DI GRAZIA E GIUSTIZIA

DIREZIONE GENERALE AFFARI PENALI
UFFICIO IIª

Protoc. N.25023
Risp. al foglio N.
del
Allegati n.2

18 MAR. 1944

OGGETTO: Reati contro l'Amministrazione Alleata - Pendenza -

AL PROCURATORE DEL RE =BRINDISI=

e per conoscenza

ALLA COMMISSIONE ALLEATA DI CONTROLLO
(Sottocommissione Legale)
(in rif.alla nota del 7 c.m.-n.ACC/4011/4)

SALERNO

Dagli allegati elenchi rimessimi dalla Commissione Alleata di Controllo, ho avuto modo di rilevare la soverchia pendenza di provvedimenti penali per reati contro l'Amministrazione Alleata.

Pertanto, la interesso ad eliminarla al più presto, tenendo informato questo Ministero.- 27

IL MINISTRO

Declassified E.O. 12356 Section 3.3/NND No. 785016

2180

Declassified E.O. 12356 Section 3.3/NND No. 785016

25

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

ES/gmf

ACC/4011/L

18 March 1944.

SUBJECT: Directives to Italian Courts and Military Tribunals on prosecution of offences against Allied interests.

TO : General of Army Corps, Mercalli (Ministry of War).

1. At the meeting held on 6 March 1944 in the office of this Subcommission it was agreed that the Ministry of Justice and the appropriate military authority will issue directives on the above subject to Procuratori Generali del Re and Procuratori Militari respectively.

2. A copy of said directives issued by the Ministry of Justice has been sent for action to all Italian officials concerned.

3. This Subcommission note with surprise that no directive as yet has been issued by the military authorities in this respect, or if it has been, no notice to that effect has been received at this HQ.

G. G. HANNAFORD
Major
Officer i/c Italian Section
for Chief Legal Officer.

1 26

2

Ib 4011 (24)

MEMORANDUM

OFFENCES AGAINST ALLIED PERSONNEL AND PROPERTY

1. On many occasions Allied Military Authorities have insisted that special measures be taken by Italian Court officials in order to cope with the steadily increasing number of offenders against Allied property in unoccupied territory.

2. The Minister of Justice has issued a few days ago, at the request of this sub-commission, a strong directive to Procuratori Generali and Procuratori del Re instructing them to give absolute priority to trial of cases affecting Allied interests in territories under Italian administration. This directive is very comprehensive and ought to meet the requirements of the Military Authorities in relation thereto.

3. A similar directive has been or is about to be issued by the General, Head of the Italian Supreme Military Court in connection with trials of a similar nature which will be held befor Italian Military Courts in pursuance of the agreement reached in this connection, at the meeting of 7 March between the Minister, the General and this sub-commission.

4. In his covering letter when forwarding to this sub-commission the draft of the directive above referred to, the Minister suggested that it would be equitable "in order to ensure the uniform application of the provisions of Art 15 of the Penal Military Code of Italy," that inasmuch as both the Italian Civil and Military judicial authorities had agreed to inform the Allied authorities of the result of all trials of offenders having committed offences against allied personnel or property, the Allied judicial authorities should in turn, inform the Italian government of "the results of proceedings against Allied Military personnel having committed offences," "obviously very rare, against Italian Military personnel or property."

5. The text of article 15 CPMG under which such Italian offenders, whether military or civilians, can be tried by Italian Military Courts reads as follows:

"(Soldiers of Allied States or of States associated in the war)
'According to the Penal Military War Laws, the crimes committed by Italian soldiers or by persons not belonging to the armed forces of the Italian State, against the soldiers or against the armed forces of an Allied State, are considered as if committed against the soldiers or against the armed forces of the Italian State. The observance of this rule depends upon the condition that the Allied State guarantees the same penal protectionto the soldiers and to the armed forces of the Italian State.
'For the purposes of the provisions of this code, under the term 'Allied State' is comprised also the State associated in the war.'"

6. The Minister's request appears at first sight to be legitimate, but as Allied Forces will try in their respective courts-martial, their own personnel who may commit unwarranted acts against the Italians, it is suggested that the GOC in C be approached in order to find out whether the Military authorities will agree to inform the Minister of Justice through the Allied Control Commission, of the results of such trials.

Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

13 MAR 1944 1946

Ref: 314/24/CA. 15th March 1944. (22)

SUBJECT: Offences against Allied Forces.

TO : Vice President,
Administrative Section.

The contents of the directive from the Minister of Justice which were communicated to various addressees in ACC/4011/L dated 12 March 44 from the Legal Sub-Commission are so much the concern of various military formations and the Regional Commissioners themselves that I think it would have been better if the directive had been issued from this office.

Brigadier,
Executive Commissioner.

MSL/JG.

RENDQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

/gmf

ACC/ACII/L.

12 March 1944.

SUBJECT: Directive from the Minister of Justice in regard to offences against Allied Forces and Property.

TO : See Distribution List.

1. Enclosed are copies of the translation of a directive from the Minister of Justice to Procuratori Generali and Procuratori del Re dated 8 March 1944 for the purpose of expediting and making effective trials of Italians for offences against Allied personnel and property.

2. All personnel in your organization having to do with the arrest and subsequent trial of offenders in the Italian courts should be advised of the contents of the directive.

3. In order that the best results may be obtained from this effort Allied personnel should give the Italian law enforcement officials their fullest cooperation. It has sometimes happened that offenders are turned over to the Carabinieri without sufficient data on which charges can be based and without the names and addresses of the prospective witnesses. Also there have been delays in handing over offenders to the Caribinieri. This should be avoided.

4. A further directive in respect of proceedings before Italian Military Courts in the same connection will be forwarded to you as soon as received from the President of the Italian Supreme Military Court, General Marcelli.

Richard H. Wilmer

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

23

Distribution List:

RLO (thru RC)	Region	1
" "	"	2
" "	"	3
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20 copies each for transmittal to every legal officer and to every legal liaison officer at the Courts of Appeal.

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SLO 5th Army - 10
SLO 8th " - 10

Declassified E.O. 12356 Section 3.3/NND No. 785016

Translation: By Maj. Hannaford.

Salerno, 8 March 44

MINISTRY OF JUSTICE.

Central Office for Criminal Affairs.

SUBJECT: Directive in regard to proceedings for offences of any description committed against the Allied Governments, Allied forces and property.

To all Procuratori Generali -
Procuratori del Re.

Attention has been drawn on previous occasions by circular directive from this Ministry to the Procuratori Generali to the fact that offences of theft especially to the detriment of Allied Forces were on the increase and it was recommended not only that the police be given strict instructions in relation to the necessity of preventing such thefts by exercising the greatest watchfullness, but also that pre-trial investigations be carried out with care and solicitude, always bearing in mind the gravity of the offence when having to take a decision with regard to the personal freedom of the accused.

It was also requested at the time that this Ministry be kept informed, as soon as the charges were known, of any theft of correspondence and other serious crimes affecting the Allied Forces, and also of the result of the inquiries and proceedings.

Now, at the request of the Allied authorities, the general instructions hereunder, (in addition to and in partial modification of previous directives) shall be followed for any offence committed against the Allied Governments, Forces and property.

In this respect, it must be remembered, that the Allied Military Police will inform at the same time the Allied Control Commission, the Royal Carabinieri (to whom prisoners shall be handed) and the Procuratore del Re of the names of the accused and of their offence.

As soon as such information is received, Procuratori del Re shall decide whether the offence committed falls within the jurisdiction of the Italian Military Courts or the ordinary Civil Courts, bearing in mind the provisions of Article 15 of the Italian Military Code of War, which this Ministry consider applicable in this connection.

As soon as the competence of the Civil Courts has been established the Procuratori del Re shall initiate penal proceedings forthwith and if necessary shall request from the Carabinieri a copy of the charge sheet (denuncia). The provisions of Article 31 of the Penal Code of Procedure shall be applied whenever the gravity of the offence renders it undesirable that such case be tried before a Pretorian Court and when possible the pre-trial proceedings shall be cut down to the minimum, the Procuratore availing himself of the short procedure (giudizio direttissimo).

Furthermore, the Procuratore shall make certain that these proceedings be given absolute priority during pre-trial investigations (istruttoria) and also in the lists, and that the findings be accurate and comprehensive, always remembering the gravity of such crimes which by interferring with the smooth running of the Allied services delays the achievement of the principal aim of the Italian State to drive the Germans out of Italy.

All decisions taken by the Procuratori as to proper jurisdiction, the results of pre-trial investigations and of the Court proceedings shall be communicated forthwith to the local Allied Legal Officer, to whom the Procuratori

Declassified E.O. 12356 Section 3.3/NND No. 785016

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All decisions taken by the Procuratori as to proper jurisdiction, the results of pre-trial investigations and of the Court proceedings shall be communicated forthwith to the local Allied Legal Officer, to whom the Procuratori del Re may refer whenever they deem it useful during the investigations and trial, especially in regard to the actions of the police and the examination of their evidence.

Declassified E.O. 12356 Section 3.3/NND No. 785016

Furthermore the Allied Control Commission have expressed the wish that provisional liberty (except under special circumstances) should not be granted for the offences in question or, that proper security be obtained in order to ensure that defendants shall not escape the law.

This request is perfectly legitimate because not only is the Commission personally interested in the punishment of such offenders but also it corresponds with the views of this Ministry in regard to the gravity of those crimes. Procuratori del Re are therefore urged, in cases when the granting of provisional liberty is optional, to make full use of their discretionary powers in this connection.

Finally in modification of previous instructions Procuratori Generali are requested to forward to this Ministry at the end of every month, a list of such cases, which have been tried in their district indicating the result of each proceedings and also a nominal roll of matters pending, either before the examining judge or the Court, giving the reasons why specific cases have not reached finality within the maximum time limit of two months after the notification from the Allied police has been received.

The Minister.
E. CASATI.

Declassified E.O. 12356 Section 3.3/NND No. 785016

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Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

(21)

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394

ES/mmf

13 March 1944.

ACC/4011/L

SUBJECT: Offences against Allied Forces.

TO : Executive Commissioner, ACC.

Herewith for your information a copy of instructions sent by the Minister of Justice to Italian officials concerned at the request of this Subcommission.

1 21

G. G. HANNAFORD, Major
Officer i/c Italian Section
for Chief Legal Officer.

2

2139

Declassified E.O. 12356 Section 3.3/NND No. 785016

NEAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394.

ES/gmf

20

ACC/4011/L

11 March 1944.

SUBJECT: Offences against Allied Interests.

TO : HQ No. 2 District (Attention Maj. Mattei, F.S.).

1. Further to your 2022/23G dated 17 Jan. 44 last para. Enclosed herewith a translation of the directive issued by the Minister of Justice to the Procuratori Generali in the territory under Italian administration.

2. The following is the Italian legislation applicable to cases of sabotage in time of war:

(i) Penal Military Code of War: Arts. 158, 159, 160, 161.

(ii) Penal Code of the Kingdom of Italy: Arts. 253, 254.

According to the interpretation of the Ministry of Justice Art. 15 of the Penal Military Code of War and Art. 268 of the Penal Code permit the above legislation to be applied to acts of sabotage committed against Allied installations.

3. Enclosed herewith the translation of the more important of the above referred Articles.

4. Any offence against Allied interests committed by Italians in the territory under Italian administration may be tried in Allied Military Tribunals according to Art. 3 of the Royal Decree Law 11 Feb. 1944 No. 31, a translation of which is enclosed. It is the intention of the ACC authorities to permit the Italian Courts to deal with such offences saving, however, the right to withdraw any case from Italian jurisdiction and refer it to the Allied Military Tribunals.

1 . 20

A. R. THACKRAH, Major
for Chief Legal Officer

Enclosed: Translations.

2

2190

Declassified E.O. 12356 Section 3.3/NND No. 785016

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394.

ES/gmf

19

ACC/4011/L.

7 March 44

SUBJECT: Crimes against Allied Interests.

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

Herewith 2 documents on the above subject for your perusal. It is requested that they be returned to this office.

19

G. G. HAINWARD, Major
Officer i/c Italian Section
forChief Legal Officer.

2

Declassified E.O. 12356 Section 3.3/NND No. 785016

PROCURA del RE di BRINDISI

N. 187

6 MAR 1944

Brindisi, 25/2/44

OD/la

COMMISSIONE ALLEATA DI CONTROLLO

BRINDISI

In evasione alla nostra conversazione odierna, pregasi rimettere n.2 prospetti (anno 1943-1944) numerici dei procedimenti penali contro persone per reati in danno dell'Armata straniera Militare Anglo-Americana.

Con osservanza

IL PROCURATORE DEL RE

2

Declassified E.O. 12356 Section 3.3/NND No. 785016

SUBJECT:- Arrest and Trial of Italians.

Allied Control Commission,
Palazzo del Governo,
TARANTO.

ACC/4011/L

---

6 March 1944.

Legal Sub-Commission,
Allied Control Commission.
Attn: Officer i/c Italian Section.

---

1. Ref. your letter 29 Feb. 44 copy of which received, SIG. RE, the new Procuratore del Re at Taranto, arrived and assumed the duties of his office on 22 February 1944.

R.M.P. HAWKIN, Capt.
Provincial Commissioner.

Copy to:- Regional Liaison Officer,
Allied Control Commission,
Municipio Building,
BARI.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394.

ARE/gmf

16

ACC/4011/L

4 March 1944.

SUBJECT: Unlawful Use of Military Vehicles.

TO : H.E. The Minister of Justice.

The attention of this Subcommission has been called by the Allied Military Police to the increasing number of serious cases of bribery of members of the Allied Forces by Italian citizens. In these cases the object of the criminal is to obtain the use of Allied Military transport for the carriage of "black market" supplies in defiance of the food control laws.

These offences are doubly ~~responsible~~ reprehensible in that they not only aggravate the difficulties of food distribution and control but also undermine military discipline.

In order that Your Excellency may judge of the extent of this traffic in the Salerno region the following are brief particulars of nine cases now in course of being handed over for prosecution to the Italian police.

(a) Villani Pietro; age 22 years; residing at Via Santa Maria, Maggiore, Nocera, Superiore.
(b) Villani Giovanni; " 20 years; " " "
(c) Villani Alfonso; " 19 years; " " "
(d) Villani Ciro; " 55 years; " " "
(e) Villani Antonio; " 23 years; " " "
(f) Villani Carmine; " 26 years; " " "
(g) Cascone Fresco; " 35 years; " Via Lemie, Pagani
(h) Albono Salvatore; " 23 years; " 57 Vittorio Sumo Poggiomarino.
(i) Ruggiero Salvatore; 23 years; " Puccieni, Nocera, Superiore.

Cases a,b,c,d,e,f are all charged with conspiracy in that between the 10th and 14th February 1944 they bribed a member of the Allied Forces in order to have the use of a Military Vehicle to convey pigs from Potenza to Salerno.

Cases c,e & f are also charged with conspiracy and bribery of a memberof the Allied Forces in order to convey pigs from Potenza to Nocera.

In the above cases large sums of money are involved.

As regards cases g,h & i, the charges are similar to the preceding ones and again large sums of money, totalling 367,800 lire, were paid over by way of bribes to the Military drivers. All the above accused are detained in Salerno jail.

The cooperation of Your Excellency's department is solicited in expediting the trial ensuring adequate punishment of these offenders, and

Declassified E.O. 12356 Section 3.3/NND No. 785016

ACC/4011/A 4 March 1944.

SUBJECT: Unlawful Use of Military Vehicles.

TO : H.E. The Minister of Justice.

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These offenses are doubly ~~responsible~~ reprehensible in that they not only aggravate the difficulties of food distribution and control but also undermine military discipline.

In order that Your Excellency may judge of the extent of this traffic in the Salerno region the following are brief particulars of nine cases now in course of being handed over for prosecution to the Italian police.

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(d) Villani Ciro; " 55 years; " " "
(e) Villani Antonio; " 23 years; " " "
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(g) Cascone Fresco; " 35 years; " Via Lamia, Pogeni
(h) Albono Salvatore; " 25 years; " 57 Vittorio Emmanuele, Poggiomarino.
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The cooperation of Your Excellency's department is solicited in expediting the trial ensuring adequate punishment of these offenders, and supplying this office with a report on the result of these cases at earliest convenience.

Yours.

A. R. THACKRAH, Major
for Chief Legal Officer.

2

Declassified E.O. 12356 Section 3.3/NND No. 785016

2195

Declassified E.O. 12356 Section 3.3/NND No. 785016

GRU/gmf

15

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394.

ACC/4011/L

1 March 1944

SUBJECT: Offences by Italian Soldiers. Carbineers

TO : HQ 2 District.

15

Ref your 2022/160 dated 24 Feb pressure has already been brought to bear on the Minister of Justice to expedite and deal with cases heavily and further steps are now being taken (in conjunction with the Army Sub-commission) to impress on the Military Tribunals their responsibilies in this matter.

It will greatly facilitate the giving of directions to the Minister of Justice and the Comando Supremo if you will let us have from time to time lists of persons charged with the more important offences, giving the following particulars:

(a) Name of the persons charged.

(b) Very brief particulars of offence.

(c) The date of the offence and the date and name of the body to whom the offenders have been handed over.

(d) Where the person has been charged and whether the trial is pending before the civil penal court or the military penal court.

G. R. UPJOHN, Colonel 15
Chief Legal Officer.

2

Declassified E.O. 12356 Section 3.3/NND No. 785016

1.

REAR HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission
APO 394.

RB/cmf (14)

ACC/4011/L

29 February 1944.

SUBJECT: Arrest and Trial of Italians.

TO : Regional Liaison Officer, ACC, Municipio Building, Bari.

1. Ref your letter without date or file no. on the above subject. I received an assurance from the newly appointed Minister of Justice that energetic action will be taken to remedy the situation, with particular attention to cases set forth in the list enclosed with your letter.

2. I was also informed that Sig. Re, the new Procuratore del Re at Taranto has already taken up his office. Please confirm this information.

Copy to: Capt. R.M.P. Hawkin, ACC
Liaison Officer (Taranto)

G. G. HAMMOND, Major
Officer in/c Italian Section
for Chief Legal Officer

2

Declassified E.O. 12356 Section 3.3/NND No. 785016

4011

SUBJECT: Co-operation with Allied Authorities

HQ 2 District CMF
2022/16 G

ACC Legal Division

24 Feb 44

Copy 6 Base Sub Area

Attached is a copy of a letter from Commander 6 Base Sub Area.

Complaints are constantly being received from Areas and Sub Areas about the inadequacy of sentences passed by the Italian Courts on persons found guilty of Security and pilferage offences.

The trouble would appear to be that the Italian authorities concerned invariably try these offences as petty offences and not as acts of sabotage.

This HQ would be grateful if the Italian judicial authorities could be requested to take the gravest view of all offences against Allied personnel or property and frame the charges accordingly.

E. J. Ward.

Major-General
Commanding 2 District

JHC

2

13

Declassified E.O. 12356 Section 3.3/NND No. 785016

COPY

Subject:- Co-operation with Allied Authorities.

6/BSA/781/5/G.
RESTRICTED.
20 Feb 44.

12

2 District.

Generale di Brigata MONTALTO.

The attached correspondence is forwarded for your information.

Il Procuratore Militaire Del RE is Generale di Brigata MONTALTO and on two previous occasions this HQ has had to bring pressure to bear upon this officer to have security and pilferage cases dealt with adequately.

Soon after this HQ took over this Sub-Area, the GSO II had to send for Generale MONTALTO because it was learnt that this officer proposed to deal with the theft of plastic and other explosives from the special ordnance depot at MONOPOLI as simple larceny. As a result of this interview the culprits were charged with sabotage and sentenced to terms of 18 and 15 years penal servitude.

On subsequent occasion Generale di Brigata MONTALTO appeared before the GSO II to explain why a certain MARIO MACRONE who was handed over to the Civil authorities for throwing a grenade at four Sjts of the Airborne Division, had been released on bail. On this occasion it was learnt that Generale di Brigata MONTALTO proposed to deal with the case as an act likely to cause bodily harm (not a particularly serious offence under Italian Criminal Law) but as a result of the interview he agreed to proceed with the charge preferred by the British authorities, that of attempted murder.

At this latter interview the GSO II personally warned Generale di Brigata MONTALTO that the co-operation being given by the Procuratore's department was not such as was expected and demanded by this HQ.

In view of the attitude shown by the contents of the attached letter it is considered that Generale MONTALTO is failing to co-operate satisfactorily with the Allied authorities and pressure should be brought to effect his immediate removal and replacement by a more satisfactory officer.

I consider this a matter of policy and of some urgency. 12

(Signed) G. V. Palmer, Brigadier,
Commander,
6 Base Sub Area.

TE R/EJB

2199

Declassified E.O. 12356 Section 3.3/NND No. 785016

COPY

AFHQ/E/25.
11 Feb 44

Subject: Punishment of Civilian Offenders.

To : (G) 6 Base Sub-Area.

From : AFHQ 181 HQ Provost Coy CMP (Ports).

I have received from Il Procuratore Militaire Del RE two lists dated 5th and 7th Feb 44, giving details of sentences pronounced on various civilian offenders apprehended on the docks.

The following civilians are shown as being released owing to "lack of evidence" :

1. COVIELLO, Francesco - Arrested near 46 BSD on 19/II/43 and found to be in possession of a sand bag containing 7 tins of sausages and 7 tins of bacon.

2. AVOLIO, Ettore - Arrested on the docks on 25/II/43 and found to be in possession of 1 tin of Maxim Cheese.

3. LAVERMICOCCA, Giovanni - Arrested at Nos. 6 and 7 Berths Bari Docks on 12/I/44 for using the air-raid shelter as a lavatory, and leaving it in a filthy condition.

4. BASCIANO, Giuseppe - Arrested at No. 3 Gate, BARI Docks, on 15/I/44 and found to be in possession of 1 pair of WD socks.

The only evidence available in each case is of course that of the Military Policeman making the arrest, and in no instance has a request been made to this office by the Italian authorities for witnesses to be produced, despite my repeated statements to them that they, and an interpreter, are available when these civilians are brought to trial.

It would again appear that the Civilian authorities are NOT willing to co-operate in the proper punishment of these offenders, and I would be grateful if some pressure could be brought to bear in the appropriate quarters.

(Signed) A. Wikins. Major,
Assistant Provost Marshal,
181 HQ Provost Coy, CMP (Ports).

In the Field.

2

2200

Declassified E.O. 12356 Section 3.3/NND No. 785016

Copy for file 4011

HEADQUARTERS
ALLIED CONTROL COMMISSION
LEGAL SUB-COMMISSION
APO 394.

(10)

18th February, 1944.

AGC/1083/1.

SUBJECT : Theft of Allied Mail.

TO : H.E. The Under Secretary of State.
Ministry of Pardon and Justice.

My attention has been called by the Allied military authorities to the prevalence of thefts of Allied mail perpetrated at railway sidings of Bari and in other localities under control of the Italian Government. I am informed that the following Italian civilians have been arrested by Allied authorities on 17 Dec 1943 for theft of Allied parcel mail and handed over to Italian civil authorities :-

PALMIOTTO GIUSEPPE	Via Grossis No. 1 GIOVINAZZO.
CIPRIANI [illegible]	Via Libertani No. 15 BARI.
TRENTADUE VINCENZO	Via Martelli No. 1 MODUGNO
BARUCCI ENRICO	Via Lisacani No. 27 BARI.
VITUCCI GIUSEPPE	Via Putignas No. 12 MODUGNO
GIORDANO VINCENZO	Via Garulli No. 7 BARI

In order to establish an effective deterrent the above accused who have been released from arrest pending trial, should be reconsigned to prison, their trial expedited and heavy sentences imposed if charges are sustained. A report on the outcome of each case is requested.

In view of the serious consequences which are bound to follow such thefts I wish to solicit your assurance that rigorous means of both preventive and punitive character will be applied forthwith to forestall any recurrence of such offences.

May I suggest that, following the practice adopted by you in the past in an analogous situation, a directive be issued by you on this subject to all R. Procuratori residing within the territory under Italian control. Such directive would emphasize the necessity of handling all similar offences in the manner indicated in the above cases. Furthermore, the directive would instruct the Procuratori to proceed with utmost rigor and expediency and to report to you all cases of such thefts which have occurred or which may occur in the future within their districts, indicating the outcome of each proceeding. I shall then be able to obtain from you any information received in response to the above directive and route it to the interested military authorities.

(Sgd) A. R. THACKRAH.

A. R. THACKRAH.
Major,
for Chief Legal Officer.

SUBJECT:- Arrest and Trial of Italians.

TO: Legal Sub Commission,
HQ., Allied Control Commission,
Salerno.

FROM: Regional Liaison Officer,
Municipio Building,
Bari.

---

1. Attached is a copy of a letter from the Area Comd., Taranto, to the Italian Naval Comd. of the province, enclosing a list of charges against Italians to date. The list is in three parts, corresponding to the three British Military Comds. who have been posted at Taranto.

2. You will see that there is considerable variation as to the judicial authority handling the case. I am told that this is due to the fact that before 16 Dec. 43 this area was considered a zone of operations and all cases went to the Military Tribunals, who referred some of them back to the civil courts.

3. Since 16 Dec. 43 (though there has of course been an overlap) the Military Courts are competent, in the case of civilians, only for acts against the State. All cases in which military or naval personnel are charged - and civilians who are charged with them - also go to the Military Tribunals.

4. It follows that all cases of recent arrests (with the exception of sabotage) have been referred to the ordinary courts; but Italian procedure and facilities appear to be quite inadequate to cope. For example, I am informed, that there is one Pretura (for dealing with cases involving lighter sentences) and that there are many thousand such cases outstanding.

5. The Italian Naval Comd. has recently been trying to get the judicial authorities to hold special sessions to deal with the arrears of cases. However, they hold out little hope of being able to do so.

6. The whole position is obviously very unsatisfactory and, as you see, it is giving the Military Comd. much concern. It seems to me that it can only be tackled by energetic action on the part of the Ministry of Justice.

7. You may wish to send a representative here to go into matters.

8. Finally, I have to report that the Procuratore del Re at Taranto, de Paolo, has not yet been replaced.

Declassified E.O. 12356 Section 3.3/NND No. 785016

Bari.

---

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8. Finally, I have to report that the Procuratore del Re at Taranto, de Paolo, has not yet been replaced.

E B Mayne Lt Col.
Regional Liaison Officer.
A.C.C. (Apulia).

Copy to:- Capt. R.M.P. Hawkin,
A.C.C. Liaison Officer, (Taranto).

Declassified E.O. 12356 Section 3.3/NND No. 785016

TRANSLATION

(8)

MINISTRY OF PARDON AND JUSTICE

Ref ACC/L/110

Bari, 1 Feb. 44

SUBJECT: Italian Legislation on sabotage and pilferage.

In reply to the above letter I wish to report as follows:

(a) Art. 15 of the penal military code of war provides that for the purposes of the penal military law of war, crimes committed by Italian military personnel or by persons not in service with the armed forces of the Italian State to the prejudice of military personnel or of armed forces of a state allied with the Italian State, are considered as if committed against the military personnel or armed forces of the Italian State.

The above quoted Art. 15 provides furthermore that for the purposes of this code ~~xxx~~ (translator's note: i.e. of the Penal Military Code of War) the term "allied state" comprises also a state associated in war. Thus it appears clearly from the above referred to Art. 15 that the application of the Penal Military Law (Art. 158, 159, 160 and 161 of the Penal Military Code of War) or of the ordinary penal code (Art. 253, 254 & 255 ordinary penal code), the first being more severe than the second, depends directly upon the equality of penal protection guaranteed to Italian military personnel and to armed forces of the Italian State by an allied state or by a state associated in war.

Assuming this to be the law my answer to para (a) of the above referred to letter of the Legal Subcommission is as follows:

The application of penal military law of war or of the ordinary penal law depends solely upon the compliance with the condition expressly stated in the above cited Art. 15 of the penal military code of war, that the allied powers assure an equal penal protection to Italian military personnel and to the armed forces of the Italian State.

(b) I wish to delay the answer to your query as to whether Art. 158 of the penal military code of war has been applied to saboteurs of German military installations in Italy at the time of the Italian-German Alliance, because at the moment I am not in possession of the data necessary for the answer. I shall request precise information from the territorial military tribunals as soon as possible.

(c) I do not recall that there is any special war-time legislation on this subject in this part of Italy and I think that the above specified legislation is applicable.

2

Declassified E.O. 12356 Section 3.3/NND No. 785016

MINISTERO DI GRAZIA E GIUSTIZIA

(7)

Protoc. N. 851/4
Risp. al foglio N.
Riferimento: ACC/L/110.

Bari, 1° febbraio 1944

OGGETTO: Legislazione italiana sul sabotaggio e saccheggio.

Al ALLA COMMISSIONE ALLEATA DI CONTROLLO
Sottocommissione Legale

P.M.151

In ordine alla nota di cui sopra, riferisco quanto appresso:
a) l'art.15 del codice penale militare di guerra dispone che, agli effetti della legge penale militare di guerra, i reati commessi da militari italiani o da persone estranee alle forze armate dello Stato italiano a danno di militari o delle forze armate dello stato alleato sono considerati come se fossero commessi a danno di militari o delle forze armate dello Stato italiano. La osservanza di questa norma é subordinata alla condizione che lo Stato alleato garantisca parità di tutela penale ai militari italiani ed alle forze armate dello Stato italiano.

Agli effetti delle disposizioni di questo codice, continua il citato art.15, sotto la denominazione di stato alleato s'intende compreso anche lo stato associato nella guerra.

Ora, dal testo dell'art.15 sopra riferito, chiaramente discende la conseguenza che l'applicazione della legge penale militare (art. 158, 159, 160 e 161 codice penale militare di guerra) o della legge penale ordinaria (art.253, 254 e 255 codice penale comune), la prima molto più severa della seconda, é in stretta funzione col verificarsi o meno della parità di tutela penale garantita ai militari italiani e alle forze armate dello Stato italiano dallo stato alleato o associato nella guerra.

Declassified E.O. 12356 Section 3.3/NND No. 785016

Protoc. N. 8514
Risp. al foglio N.
Rifegimento:ACC/L/110.

Bari, 1° febbraio 1944

OGGETTO: Legislazione italiana sul sabotaggio e saccheggio.

Imo ALLA COMMISSIONE ALLEATA DI CONTROLLO
Sottocommissione Legale

P.M.151

In ordine alla nota di cui sopra, riferisco quanto appresso:
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Agli effetti delle disposizioni di questo codice, continua il citato art.15, sotto la denominazione di stato alleato s'intende compreso anche lo stato associato nella guerra.

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Ciò premesso, alla domanda di cui alla lettera a) della nota sopra riferita di codesta Commissione la mia risposta é la seguente: sia per i militari che per i civili, l'applicazione della legge penale militare di guerra o della legge penale comune dipende uni-

./.

LATERZA POLO - BARI 8157

Declassified E.O. 12356 Section 3.3/NND No. 785016

MINISTERO DI GRAZIA E GIUSTIZIA

(7)

Protoc. N. 851/4
Risp. al foglio N.
Riferimento: ACC/L/110.

Bari, 1° febbraio 1944

OGGETTO: Legislazione italiana sul sabotaggio e saccheggio.

Imo ALLA COMMISSIONE ALLEATA DI CONTROLLO
Sottocommissione Legale

P.M.151

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Declassified E.O. 12356 Section 3.3/NND No. 785016

MINISTERO DI GRAZIA E GIUSTIZIA

Protoc. N. 851/4
Risp. al foglio N.
Riferimento: ACC/L/110.

Bari, 1° febbraio 1944

OGGETTO: Legislazione italiana sul sabotaggio e saccheggio.

Al ALLA COMMISSIONE ALLEATA DI CONTROLLO
Sottocommissione Legale

P.M.151

In ordine alla nota di cui sopra, riferisco quanto appresso:
a) l'art.15 del codice penale militare di guerra dispone che, agli effetti della legge penale militare di guerra, i reati commessi da militari italiani o da persone estranee alle forze armate dello Stato italiano a danno di militari o delle forze armate dello stato alleato sono considerati come se fossero commessi a danno di militari o delle forze armate dello Stato italiano. La osservanza di questa norma é subordinata alla condizione che lo Stato alleato garantisca parità di tutela penale ai militari italiani ed alle forze armate dello Stato italiano.

Agli effetti delle disposizioni di questo codice, continua il citato art.15, sotto la denominazione di stato alleato s'intende compreso anche lo stato associato nella guerra.

Ora, dal testo dell'art.15 sopra riferito, chiaramente discende la conseguenza che l'applicazione della legge penale militare (art. 158, 159, 160 e 161 codice penale militare di guerra) o della legge penale ordinaria (art.253, 254 e 255 codice penale comune), la prima molto più severa della seconda, é in stretta funzione col verificarsi o meno della parità di tutela penale garantita ai militari italiani e alle forze armate dello Stato italiano dallo stato alleato o associato nella guerra.

Ciò premesso, alla domanda di cui alla lettera a) della nota sopra riferita di codesta Commissione la mia risposta é la seguente: sia per i militari che per i civili, l'applicazione della legge penale militare di guerra o della legge penale comune dipende uni-

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LATERZA POLO - BARI

Declassified E.O. 12356 Section 3.3/NND No. 785016

camente dal verificarsi o meno della condizione, espressamente richiamata dal precitato art.15 del codice penale militare di guerra, che le potenze alleate garantiscano o meno parità di tutela penale ai militari italiani e alle forze armate dello Stato italiano.

b) Mi riservo di rispondere al quesito se l'art.158 codice penale militare di guerra sia stato applicato ai sobotatori di installazioni militari tedesche in Italia al tempo dell'alleanza italo-germanica, non essendo per il momento in possesso dei dati occorrenti per risolverlo ~~in merito occorrono~~. In proposito chiederò al più presto notizie precise ai tribunali militari territoriali.

c) Non mi risulta che, per questo reato, vi sia qualche legislazione speciale per il tempo di guerra in materia, sembrandomi tuttora applicabile la legislazione sopra specificata.

IL SOTTOSEGRETARIO DI STATO
(Giuseppe de Santis)

Declassified E.O. 12356 Section 3.3/NND No. 785016

2209

Declassified E.O. 12356 Section 3.3/NND No. 785016

(2)

Military Penal Code of War

Art. 158

(6)

Destruction or Sabotage of Military Works or other Objects.

Whoever in places where a state of war exists:

1. Removes, destroys or renders unusable, in whole or in part, even though only temporarily, ships, airplanes, convoys, roads, installations, depots, machinery, or other instruments of war, telegraphic, radiotelegraphic, telephonic or similar lines or equipment, works or projects for military defense, enclosures, reservations or similar establishments, constructed for military purposes or destined for such purpose;

2. Abandons or renders unusable in whole or in part or damages weapons or ammunition,

will be punished by imprisonment for not less than 15 years. Death sentence with degradation will be imposed where the fact has prejudiced the preparation or military efficiency of the State or military operations.

If the act is committed by negligence the court will render a sentence for imprisonment for a term from one to ten years.

6

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Declassified E.O. 12356 Section 3.3/NND No. 785016

(5)

PENAL CODE OF THE KINGDOM OF ITALY

Article 253.

(Destruction or Sabotage of Military Works)

Whoever destroys or renders unserviceable, wholly or in part, even temporarily, vessels, airships, trains, roads, establishments, depots or other military works or works assigned to the service of the armed forces of the State, shall be punished with penal servitude for not less than 8 years.

The death penalty shall be inflicted--

(1) If the act is committed in the interest of a State at war with the Italian State.
(2) If the act has compromised the preparation or the efficiency of the State for war, or its military operations.

Article 268

(Equivalence of Allied States)

The penalties prescribed in Article 247 et seq. shall also apply when the crime is committed to the detriment of a foreign State allied or associated with the Italian State for purposes of war.

Art 15c Penal Military Code of War
Art 253 Penal Code

(4)

Points to Consider

1. Can ~~this~~ article 158 PP WCW be applied against Italian saboteurs of Allied military installations in Italy?

There is not much doubt that the language from the grammatical point of view is broad enough to cover not only Italian but also any other installation "constructed for military purpose or destined for such purpose".

The only statement in the article itself which would tend to limit its scope to the Italian military projects is contained in para 3 referring to "military efficiency of the State". By "State" obviously is meant the Italian State. However, this phrase is connected disjuctively with "military operations" so that the entire clause could be intepeted to read as follows: "where the fact has prejudiced the preparation or military efficiency of the ITALIAN State or ITALIAN military operations or military operations of a friendly power". Besides that it can be argued that a sabotage of the Allied military effort in Italy ~~xxxx~~ works to the prejudice of the "military efficiency of the ITALIAN State or ITALIAN military operations" in view of the common purpose of the war in which the Allies and the Italians are engaged. It could also be argued that if the Italian legislator would have intended to include friendly installations within the scope of protection of the article under consideration he would have done so expressly just as it is decreed in Art 84 of the same code that certain crimes set forth in certain articles of the Code will be equally punishable if committed by Italians "to the damage of a State allied with the Italian State". Contrary to this argument it might be pointed out that the rule of Art. 84 was deemed necessary because the majority of Articles to which it applies mentions expressly the Italian State as the subject of protection. Art. 84 was inserted upon an express request of the parliamentary committee demanding equalisation of allied states in regard to the particular offenses covered by this para. Art. 64 of the same Code provides for punishment for divulging pictorial information on the disposition of "armed forces of the Italian State or of an allied state". The following Article (66) concerning the divulging of military secrets speaks only of the "situation of armed forces" in the first sentence of the first para and of "military operation of the Italian State" in the last sentence of the same para. On the whole the terms "armed forces", "military defense of the State", "military operations of the Italian State or of an allied State", "military operations" are used apparently without consistency and would not indicate an intent to carefully distinguish the various possible meanings.

2. It would be interesting to find out whether the Article under consideration has been applied to German installations in Italy at the time of the Italian German Alliance or whether any of the other Articles of the Code which were not expressly made applicable to the allies of Italy, have been used for the protection of Germans.

3. If it is found that Article 158 applies to Allied installations in Italy it will be necessary to determine whether the entire Allied and Italian controlled territory of Italy is still considered to be "in state of war" within the meaning of the 1st subpara of the said Article and of Art 4 of the Military Code of War.

Declassified E.O. 12356 Section 3.3/NND No. 785016

(3)

4. By contrast with the solution contained in the Military Code, the Civil Penal Code expressly extends the protection against sabotage to military works of "allied and associated states." Thus if the Military Tribunal sitting in free Italy and passing upon charges of sabotage of Allied installations committed by Italian civilians should find that the Allied installations are not included in Art. 158 of the Military Code, it might refer the charges to a Civilian Penal Court which will try the defendants under Arts. 253 and 268 of the Civil Penal Code. The fact that the "allied and associated works" are protected at time of peace by the Civil Penal Code would seem to indicate (argument a majore ad minus) that such works should enjoy at least equal protection at time of war.

5. Bando of 4 Oct. 1943 No. 1 (relating to convening of the extraordinary Military Tribunals of War and to increase of punishments for certain crimes).

Art. 1 provides:

"The Extraordinary Military Tribunals in territories declared as "zones of operations" are competent in addition to what is provided in Art. 283 of the Penal Military Code of War to pass upon the following crimes committed by the Military:..(a) - (b)...

"The said tribunals may be convened to pass upon the following crimes even if committed by civilians:

"(a) destruction and sabotage of works and other military objects (Art. 158 C.P.M.G.).

"For all the crimes punishable by death and for those enumerated in this article, the extraordinary military tribunals of war may be convened also when the defendant has not been arrested in flagrante."

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Declassified E.O. 12356 Section 3.3/NND No. 785016

Declassified E.O. 12356 Section 3.3/NND No. 785016

HEAD QUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission.

25 January 1944.

In reply
refer to: ACC/L/110.

SUBJECT: Italian Law on Sabotage and Pilferage.

TO : H.E. The Undersecretary of State
Ministry of Pardon and Justice.

1. May I solicit the advice of Your Excellency on the following problem:

(a) The question has arisen as to what Italian legislation would apply to punishing Italian civilians or soldiers who committed acts of sabotage on Allied installations or pilferage of Allied property in those Provinces of Italy under control of the Italian Government.

(b) It would be interesting to know whether Art. 158 of the CODICE PENALE MILITARE DI GUERRA would be applicable to the cases mentioned under (a) above at the present time and whether this Article has been applied to saboteurs of German military installations in Italy at the time of the German-Italian Alliance.

(c) Is there any special wartime legislation on the subject applicable by either civil or military courts sitting in provinces of Italy under control of the Italian Government.

G. R. U. JOHN, Colonel
Chief Legal Officer, ACC.

2214

Declassified E.O. 12356 Section 3.3/NND No. 785016

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Sabotage and Pilferage in King's Italy

Question to be put to the Ministry:

What legislation applies to punishing Italian civilians and soldiers who committed acts of sabotage on Allied installations (e.g. signal wire cutting) or pilferage of Allied property?

Is Art. 158 Penal Military Code of War applicable in free Italy at the present time? If so does it apply to Allied installations? Has it been applied to German installations in Italy?

Is there any bando on the subject? (See Bando of 4 Oct. 43 No.1).

2