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FILE CLOSED 18 APRIL 1944



PARTITO FASCISTA REPUBBLICANO
FEDERAZIONE DELLE UCCHE

IL COMMISSARIO FEDERALE

NOTES ON THE INSTITUTIONS KNOWN AS "CONFINO" AND
"ESILIO LOCALE"

Fascism - (Arts. 185 of C.P. and 566 - 567 of C.P.P.)
Code of 1889.

1. Embodying in its provisions, articles of the Napoleonic Code and the codes of the various Italian States which formed the Kingdom of Italy in 1859, the code of 1889 describes the penalty of "Confinio" as follows:-

Art. 18. The penalty of "confinio" is the obligation for the sentenced individual to reside in a Comune specified in the judgment of the Court, situated no less than sixty kilometers from the Comune where the offence was committed or the Comune where the sentenced person has his habitual domicile, for a period of time of one month minimum but not exceeding three years. Any sentenced person contravening the order of "confinio" shall serve the balance of his sentence in a State prison.

The "Esilio locale" residence in certain specified towns was forbidden to the sentenced person. One day of preventive arrest was counted as three days of "Confinio" (Art. 41). The sentenced person had 15 days in which to change his residence, had to present himself once a day or once a week (according to the terms of the sentence) to the local police authorities.

The whole system of protection of the State was extremely similar to those in existence in other Latin countries (Spain and Portugal) and France where such measures are known as "domicile force" or "interdiction de Sejour". In all these countries such penalties were within the jurisdiction of the ordinary courts, appeals were admissible and there was no special procedure to follow in any connection whatsoever.

2. The type of persons sentenced to Confinio, in accordance with general instructions of the Minister of Justice to the Procurators were as a rule the following:

- (a) Persons resisting arrest.
- (b) Persons using violence to establish their rights.
- (c) Persons whose sentence of reclusion was commuted in one of "confinio" by Royal pardon.
- (d) Very rarely persons believed to be anarchists or communists, but never for that specific reason.

All offences against the Royal Family, the State, Foreign representation and political freedom were punishable by terms of imprisonment (carcere) or reclusion (ergastolo). Art. 104 to 139 of Penal Code.

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

18 April, 1944.

REFERENCE : ACC/4016/4/L.

SUBJECT : Re-introduction of "Confino" as punishment.

TO : Regional Legal Officer (thru Regional Commissioner) Region 1.

1. The letter of the Legal Officer at CATANIA dated 28 March 1944 with reference to the re-institution of confino has been received.

2. As the legal situation stood at the time that Capt. Matthews wrote his letter confino could have been used by the Courts except for the lack of personnel mentioned. However, I am advised that the Italian Government has issued a decree which has done away with certain of the Fascist procedure and that this elimination so destroys parts of the structure of Confino procedure as to make it necessary later to have a new decree which will re-institute Confino in the manner in which it stood in pre-fascist days, if in fact the Government decides to retain Confino at all.

3. Because of the nature of this form of punishment it is thought desirable that any reinstitution of it should come from the Italians themselves. Therefore, if the First President or Procuratore Generale is desirous of making use of Confino he should direct a letter of recommendation direct to the Minister of Justice.

RICHARD H. WILMER.
Lieutenant-Colonel, CAC.
Deputy Chief Legal Officer.

DHW/wow.

4016/4. ALLIED CONTROL COMMISSION
C A T A N I A

28 March 1944

TO: R.L.G. (Thru Reg. Commissioner)
Region I.

From: L.L.G. Catania.

The first Presidents of the Catania and Messina Courts of Appeal have made representations to me advocating the re-introduction of Confino as a punishment. They feel that this would have a strong deterrent effect which would be useful in assisting to reduce the very large number of offences affecting Allied Property in this area.

I understand that the necessary legal machinery is still in existence but that the necessary place of confinement for this purpose is lacking. Their views are forwarded to you for your consideration.

E. H. Matthews Capt.
E.H. MATTHEWS CAPT.
L.L.G.
CATANIA 1

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