

0837

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

ACC

10000/142/320

INVESTIGATION
JUN. 1945 - DEC

0838

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

10000/142/320

INVESTIGATION AS TO DISPOSITION OF PROPERTY
JUN. 1945 - DEC. 1946

FILE

HEADQUARTERS ALLIED CO MISSION
APO 794
LEGAL DIVISION

AP/ns

17 December 1946

AC/1034/11/L

SUBJECT : Number 14 Vite XX Settembre.
Genova.

TO : Provincial Commissioner
(Attn: S.L.S.)
URINE Province.

1. Reference is made to your SLO/
HQ AC/Nov/3 of 25 November 1946.

2. The Ministry of Pardon and
Justice has been requested to give an opinion on
the case.

3. You will be informed of the out-
come.

By command of Rear Admiral STONE:

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

12

In Archives

FILE

HEADQUARTERS ARMED COMMISSION
APO 734
LEGAL DIVISION

WP/ns

10 December 1946

AC/4034/11/L

SUBJECT : Number 14 Via XX Settembre, Genoa.

TO : Dott. Giorgio Bonaldi
Ministero di Grazia e Giustizia.

Egregio Dottore,

Le allego copia di una lettera ricevuta
dal nostro Ufficiale Legale di Viterbo.

A mio parere bisogna distinguere due questioni:
la questione della proprietà in cui è evidente l'esclusiva
competenza dell'Autorità Giudiziaria e la questione dell'oc-
cupazione da parte del 5 Com. Territoriale dell'Esercito
Italiano.

È evidente che la seconda è di competenza
dell'Autorità Amministrativa e il Comune ben potrà, in
caso di violazione dei suoi interessi, ricorrere al Con-
siglio di Stato.

Le sarei ben grato se volesse trattare la
questione con le singole amministrazioni interessate in-
formandomi del punto di vista di questo Ministero.

In attesa mi abbia

molto cordia mente

Suo

G. S. Hannaford

G. S. HANNAFORD,

Lt. Colonel,

Deputy Chief Legal Advisor.

All.

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
UDINE PROVINCE

25 November 1946.

SUBJECT: Number 14 Via XX Settembre, Gemona.

TO : Chief Legal Advisor, HQ Allied Commission, Rome.
(Att. Italian Branch)
Ref. : SIC/HQ AC/NOV/3.

1. A dispute has arisen between the Commune of Gemona, Province of Udine, and Number 5 Territorial Command, Italian Army, as to the legal ownership of the above building at Gemona of which 5 Territorial Command is now in possession. The building was constructed in 1600 and until recent years was always the property of the Commune of Gemona.

2. By a deed, dated 16 September 1934, duly registered in the Gemona Registry, the Commune of Gemona made a gift of the building to the Opera di Provvidenza Sociale della Milizia Volontaria Sicurezza. Although it is not material to the present dispute, it may be mentioned that the Commune allege that the gift was made by them unwillingly and under pressure from the fascist party.

3. During the war period the building was let to the Milizia, it is believed at an annual rent of 7,000 lire.

4. Decreto Legislativo Luogotenenziale Number 165 of 3 August 1944 dissolved the Opera di Provvidenza Sociale della Milizia Volontaria Sicurezza and entrusted the Ministero del Tesoro with the liquidation of its property.

5. By a letter, dated 29 December 1945, the Ministero del Tesoro, by its provincial representative, the Intendente di Finanza of Udine, instructed the Commune of Gemona to take possession of the building on behalf of the Ministero del Tesoro.

6. Sometime ago 5 Territorial Command took possession of the building and although requested by the Commune to vacate, they consistently refused to do so. The Command have no troops in the building but have stored some thousands of army beds therein and placed a non-commissioned officer in charge.

7. This Headquarters has explained the legal position to the British Liaison Unit (5 BLU) and requested them to arrange with Number 5 Territorial Command to give possession to the Commune. In reply, the Liaison Unit state that Number 5 Territorial Command consider they are in legal possession and refuse to go out.

8. The Command, it is understood, base their refusal on
a) an Inter-Ministerial Decree, Number 75 of 30 December 1945

- 2 -

**HEADQUARTERS
ALLIED MILITARY GOVERNMENT
UDINE PROVINCE**

which stated that all buildings in use by the ex-Milizia pass to the Ministry of War:

b) the view that the deed of 16 September 1934 was a transfer of the building to "the military".

9. It is submitted, first, that the inter-Ministerial Decree of 30 December 1945 did not purport, and could not operate to transfer the legal ownership of the property in question. Secondly, that the interpretation sought to be placed by 5 Territorial Command on the deed of the 16th of September 1934 is palpably false since the Opera di Previdenza Sociale della Milizia Volontaria Sicurezza is a separate entity, distinct both from the Army and the Milizia. And thirdly, that the Decreto Legislativo Luogotenenziale N°165 of the 3rd of August 1944 could not be abrogated in whole or in part by a subsequent Inter-Ministerial Decree.

10. If the view herein submitted is the true one, may appropriate steps please be taken with the Italian Ministry of War to ensure that 5 Territorial Command be instructed to vacate the premises forthwith.

11. For your information, the attached circular letter of 10 August 1946 from the Italian Ministry of War indicates their policy in regard to placing buildings at the disposal of the Civil power.

By order of the Provincial Commissioner:

Encl.

C. I. P. G. H. S. H. E. N. A. N.
C.I.P. GISHENAN Major,
Senior Legal Officer,
Udine Province.

LEGAL SUB - COMMISSIONER	
CJO - CIA	
DCLO	
CHIEF COUNSEL	
ITALIAN SECTION	
Recd	DEC 3 1946

Copia.MINISTERO DELLA GUERRA
Gabinetto

N°. 217500/11 di prot.

P.M. 3800, li 10 agosto 1946

OGGETTO : Utilizzazione immobili in uso all'Amministrazione Mil.

..... indirizzi omessi.....

O M I S S I S

Tenuto conto di quanto sopra ed in considerazione del fatto che la capacità di accasermamento durante gli ultimi anni ha subito un notevole aumento in seguito;

- alla costruzione di caserme (99 caserme funzionali, caserme di G.A.F. ecc.)

- al trasferimento al Ministero della Guerra, per effetto di disposizioni di legge, delle caserme dell'ex- milizia legionaria.

ritengo che anche considerando le distruzioni provocate dalle operazioni belliche, un'aliquota di caserme e di altri immobili in uso all' A.M. possa risultare esuberante alle future necessità dell'Esercito e, quindi, possa essere ceduta per far fronte alle altre numerose necessità del Paese.

Allo scopo di dare un principio di esecuzione all'importante problema, provvedimento imposto anche dall' attuale situazione degli immobili militari e delle impossibilità di poter disporre un'adeguata sorveglianza per quelli non occupati, data la insufficienza di personale militare disponibile, ritengo opportuno impartire in merito le seguenti direttive di carattere generale:

8

O M I S S I S

P. C. C.

P; Il Capo Gabinetto

Prefettura di Udine.

IL MINISTRO
F.to Jacini

7A

HEAD RTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4034/11/L.

7 August 1945.

SUBJECT : Transfer of property in Italy to
persons of foreign nationality.

TO : Regional Commissioner, (Attn. R.L.O.), LOMBARDIA REGION.

1. Your Leg/5034 of 2 Aug 45 refers.

2. RIL of 24 July 1942 No. 807 is still in force and there exist no provisions, agreements or other instrument which exempts Allied Nationals from its provisions.

The function of the "Ministero per gli Scambi e Valute" have been taken over by the Ministry of the Treasury (Direzione delle Valute).

3. It is pointed out that RIL 807 does not deal with the question of ownership of shares in an Italian Company alleged to belong to a foreign owner but held by an Italian citizen in whose name they have been fictitiously registered to avoid sequestration.

4. In such cases application may be made to the Court in order to obtain a judgment declaring that the shares were legally the property of the foreign owner and should be registered in his name.

5. RIL 707 deals only with transfers and therefore does not apply in the case in point.

By command of Rear Admiral STONE.

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

4034/11

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
APO 394
Legal Division

80033

6A

Ref.: LEG/5034

2 August 1945.

SUBJECT : Transfer of property in Italy to persons
of foreign nationality.

TO : HQ. Allied Commission
(Legal Sub-Commission)

1. Two queries have recently been addressed to this Division regarding the transfer of property in Italy to persons of foreign nationality. One case related to a proposed purchase of land in Italy, and the other to the transfer of shares in an Italian Company to the original foreign owner by an Italian in whose name they had been fictitiously registered to avoid sequestration.

2. In both cases attention was drawn to R.D.L. 24 July 1942 N. 807, which prohibits such transfers unless made with the approval of the "Ministro per gli Scambi e per le Valute, d'intesa col Ministro per le Corporazioni."

3. It would be appreciated if answers could be given to the following questions :-

- 3
- (a) Has the 1942 Decree ever been revoked ?
 - (b) If it is still in force, to what Government department must application for permission be directed seeing that the Ministries referred to in the Decree no longer exist ?
 - (c) Is there any exemption from these regulations in favour of Allied Nationals ?

For the Regional Commissioner :

H.M. Dickie
H.M. DICKIE
W/CDR. RAF
REGIONAL LEGAL OFFICER

vb

4034/11
 ALLIED COMMISSION
 PUBLIC SAFETY LIAISON OFFICE
 R.A.A.C. QUESTURA BLDG. VIA S. VITALE

5A

PSI/Q/3.

31st July, 45.

Subject : Ivan BADALIC.

To : Legal Sub-Commission, HQ., A.C.

1. Reference your letter AC/4034/11/L dated
 30th July, 1945.

2. The Questore of Rome has been informed of
 the unconditional release of BADALIC.

W. L. Chapman
 John M. Chapman,
 Col. J.A.G.D.
 Director Public Safety,
 Sub-Commission.

5

COMMISSION
 ✓
 CIO
 Chief Counsel
 CIO
 Italian Section
 CL RKS

2 AUG 1945

4A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4034/11/L.

/rlp.
30 July 1945.

TO WHOM IT MAY CONCERN:

This is to certify that Ivan BADALIC has been found and is hereby declared to be entirely innocent in respect of the matters which led AMG authorities in Livorno to request the Questura of Rome to arrest him.

Ivan BADALIC was arrested in Rome on 25 February 1945, but no charge has been preferred against him and he has been unconditionally released.

No blame whatever attaches to Ivan BADALIC in this matter.

Cur

Original taken
by Badalic

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

HEADQUARTERS
LIVORNO PROVINCE
ALLIED MILITARY GOVERNMENT

27 July 1945

File: L.O. 1478.

Subject: Case of Ivan BADALIC.

To: HQ, Allied Commission, APO 394.
(Attn: Chief Legal Advisor - Legal Sub-Commission).

1. Reference is made to your letter dated 19 June 1945, file AC/4034/11/L, subject as above.

2. The liquor and "bail" have been restored to Sig. Badalic and/or Gruenbaum this date.

For the Zone Commissioner:

Archer Johnson
ARCHER JOHNSON,
1st Lt., Infantry,
Legal Officer.

AJ/en.

3

LEGAL SUB COMMISSION	
CLO	<i>W</i>
DCLO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	
29 JUL 1945	

HEADQUARTERS ALLIED COMMISSION
APO 394
1ST SUB-COMMISSION

2A

AC/4034/11/L.

WET/mt.
19 June 1945.

SUBJECT : Case of Ivan BADALIC.

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

1. I understand from your letter RVIII/19/3008 of 15 June 1945 that it is not disputed:

- a) that BADALIC (~~with~~ GRUENBAUM?) ~~was~~ arrested in Rome on 28 Feb 1945;
- b) that a quantity of his liquor has been blocked;
- c) that he has paid L. 100,000 for "bail";
- d) that no charge has been made against him (or GRUENBAUM)
- e) that Lt. JOHNSON, the present PLO Livorno is not in possession of sufficient facts to proceed with the case.

2. On the basis of these facts I direct that an order be made restoring the liquor and "bail" to Sig. BADALIC and/or GRUENBAUM.

3. As TOSCANA Region has officially closed down I am sending a copy of this letter direct to Zone Commissioner Livorno together with the petition submitted by BADALIC.

By command of Rear Admiral STONE:

Copy to: Zone Commissioner, LIVORNO.

W. E. REUBENS,
Colonel,
Chief Legal Advisor.

HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

1A

File Re RVIII/19/3008

Date: 13 June 1945.

SUBJECT: Attached Correspondence.

TO : Legal Sub-Commission, Headquarters A.C.

1. The matter referred to in the basic letter is in need of sorting out by Captain Granai, no longer on duty with this office.

2. Captain Granai did not handle this matter in his capacity as legal officer. No charges have been filed in AMG Courts against the accused nor are charges pending for filing. The so called bail was not bail within the judicial meaning of the term, nor is the liquor being held on authority of a court proceeding. The matter had its inception with the Provincial Commissioner and Captain Granai; whatever the arrangement, it was at all times within the boundaries of such arrangement existing between the Provincial Commissioner and Captain Granai. The Courts, as such, are not involved.

3. It is recommended ~~therefor~~ that the facts of the proceeding be ascertained from Captain Granai to the end that a proper disposition be made of the so called bail money and blocked liquors.

For the Regional Commissioner:

[Signature]
JOHN K. WEBER,
Colonel, Infantry,
Regional Legal Officer.

CLD
DCIO
Chief Counsel
CIO
Itallon
CL RKS

0 8 5 1