

ACC

10000/142/373
(VOL. 2)

10000/142/373
(VOL. 2)

HANDLING OF ENEMY AGENTS
NOV. 1944 - JULY 1945

FILE CLOSED : 30 July 1945

LAST VOLUME

23



PARTITO FASCISTA REPUBBLICANO
FEDERAZIONE DELL' UOMO

IL COMMISSARIO FEDERALE

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

30 July 1945

G-5: 383.4

SUBJECT: Execution of Convicted Persons.

TO : Headquarters, Allied Commission, APO 394.
(Attention: Legal Sub-Commission) ✓ 101A

1. Reference is made to your AC 4040/L of 27 July subject as above.

2. Without prejudice to any future change in policy which may be shown to be desirable, it is the intention that death sentences awarded by Allied military courts shall be executed by Allied military authorities. Until notification to the contrary the directive will be considered as covering cases as indicated in paragraph 4 of your reference memorandum.

A. L. Hamblen
A. L. HAMBLEN,
Brigadier General, G.S.C.,
Assistant Chief of Staff, G-5.

CLO	
DCLO	
Chief Counsel	
CIO	
Legal Section	
CL RKS	
1 AUG 1945	

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

30 July 1945

G-5: 383.4

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(Attention: Legal Sub-Commission)

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A. L. HAMELEN,
Brigadier General, G.S.C.,
Assistant Chief of Staff, G-5.

101A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

WEB/lc.
27 July 1945.

AO/4040/L.

SUBJECT : Execution of Convicted Persons.

TO : AFHQ G-5 Sec.

1. Reference is made to your G-5: 383.4 of 24 July 45.
2. There appears to be a misunderstanding between us.
3. We were of opinion that the procedure in your directive of 18 January 45 was intended to apply only to cases of death sentences upon spies and similar personnel who could not, for security reasons, be executed by Italian authorities. In such cases we agree entirely with the directives.
4. A case has now arisen, and several more appear probable, in which a death sentence has been imposed for murder and kindred offences. There appears to be no reason why such persons should not be executed by the Italian CC.FF. or police agencies according to normal Italian custom. In this case there would seem to be no need to trouble your HQ or the military authorities.
5. However the directive of 18 January 45 is stated to apply to "any person".
6. We wished to know whether this was, or is, intended to cover cases of the type mentioned in para 4.

For Chief Commissioner:

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

4440
 ALLIED FORCE HEADQUARTERS
 G-5 Section
 APO 512

9654
 LEGAL S/C
 100A
 HVA/AMB/irf

G-5: 383.4

24 July 1945

SUBJECT: Execution of Convicted Persons

TO : Headquarters, Allied Commission,
 APO 394.
 (Attention: Legal Sub-Commission)

Reference is made to telephone conversation Capt Burns -
 Lt Bullowa with respect to directive AG 014.53/047 GEG-O dated
 18 January 1945 Subject: Execution of Convicted Persons. This
 directive is based in large part on a memorandum from the Legal
 Sub-Commission, and in the event that the Legal Sub-Commission
 now believes amendment of the directive to be advisable the
 suggestions of the Sub-Commission will be given careful considera-
 tion by this Headquarters.

For the Assistant Chief of Staff, G-5:



H. Y. Anderson
 H. Y. ANDERSON
 Lt. Colonel

LEGAL SUB COMMISSION	
CLO	
DCLO	
Chief Counsel	
CJO	
Italian Section	
CL RKS	
24 JUL 1945	

RETURN THIS RECEIPT IMMEDIATELY TO:
Headquarters, Piemonte Region
AMC, APO 394, U. S. Army

POSTAL
Registry No.
S-2788

Date 14 June 1945

Serial No.) S-2788
File No : AC/4040/L
or Subject)

With inclosure (s)
indorsement(s)

Addressee: REGIONAL COMMISSIONER
(Attn. REGIONAL LEGAL OFFICER)
PIEMONTE REGION

(ORIGINAL)

RETURN THIS RECEIPT IMMEDIATELY TO:
Headquarters, Piemonte Region
AMC, APO 394, U. S. Army

POSTAL
Registry No.
S-2788

Date 14 June 1945

Serial No.) S-2788
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or Subject)

With inclosure (s)
indorsement (s)

Addressee: REGIONAL COMMISSIONER
(Attn. REGIONAL LEGAL OFFICER)
PIEMONTE REGION

Note: Sheet 2 (Addressee's
copy) to be retained
by addressee.

(DUPLICATE)

RETURN THIS RECEIPT IMMEDIATELY TO:
Headquarters, Piemonte Region
AMC, APO 394, U. S. Army

POSTAL
Registry No.
S-2788

Date 14 June 1945

Serial No.) S-2788
File No : AC/4040/L
or Subject)

With inclosure (s)
indorsement(s)

Addressee: REGIONAL COMMISSIONER
(Attn. REGIONAL LEGAL OFFICER)
PIEMONTE REGION

Receipt for communication (s)
described above is hereby acknow-
ledge by:

Edwin J. Mercer
(Signature of Officer) (Rank & Orgn)

Edwin J. Mercer, Lt. Col., Ord.
Regional (Legal Officer)

(TRIPLICATE)

JUN 14 1945

98A

CONFIDENTIAL

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

WES/at.
8 June 1945.

AC/4040/L.

SUBJECT : Espionage cases.

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

1. In reply to your RIX/IE/668/121 of 3 May 1945, this question has been under consideration by AMG.

2. AMG has now officially confirmed that AMG Courts will not be asked to try cases of alleged enemy agents who were arrested prior to the surrender, but had not been formally committed for trial at that time.

3. In the case of serious acts of espionage and sabotage or subversion perpetrated since the surrender the accused may still be committed to AMG Courts, but apart from this no further case of this nature will be heard by AMG Courts.

By command of Rear Admiral STONE:

W. E. Higgins

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

Copy to : EC (Attn: RLO) TOSCAN Region
" " " LIGURIA "
" " " PIEMONTE "
" " " LONGARDE "
" " " VENEZIA "
" " " VENEZIA CIVIL "
" " SID NAPLES Command "
" " " ANCONA "

15th Army Gp - G-5
5th Army - AMG
18th Army - AMG
IV Corps - G-5
RAAC - G-2
VP. CA Sec (for info)

CONFIDENTIAL

CONFIDENTIAL

CJH/MB

97A

2259

ALLIED FORCE HEADQUARTERS
Office of the Assistant Chief of Staff, G-2.

GBI-389.701-B-2

4 June 1945.

SUBJECT : Trial of Espionage Cases.

TO : HQ Allied Commission
Civil Affairs Sections.

92A

Reference your AC/4040/L of 28 May 45.

1. It is agreed that the procedure set out in the first three paragraphs of your letter substantially represents the policy of this HQ.
2. It has already been decided not to proceed with the preparation of cases of agents due for trial by AMG courts at the time of the surrender who had not been formally committed. The persons concerned have in fact either been made over to the Italian authorities for trial by Italian Tribunals or else interned.
3. In the case of other agents apprehended before the surrender it is not intended to recommend trial by AMG courts. Such persons will be offered to the Italians for trial by Italian Tribunals if the merits of the case warrant it. If no case can be made against them they will then be interned. The same general principle will apply in the case of post-surrender arrests. Only in the event of acts of espionage, sabotage or subversion of a more serious nature, perpetrated since the surrender, will the culprits be recommended for trial by AMG courts provided there are reasonable prospects of the prosecution being successful.

For the Assistant Chief of Staff, G-2:

P. S. Hill-Dillon
S.S. HILL-DILLON,
Colonel, G.S.,
G-2 (CI) Section.

7 JUN 1945

CONFIDENTIAL

File

4040 ✓

HEADQUARTERS ALLIED COMMISSION
Office of the Chief Commissioner
A P O 394

96A

CC 2602

30 May 1945

Subject: Commutation of Death Sentences

To: Deputy Chief Legal Advisor, Legal Sub-Commission.

MEI Ugo Ezio
BENDANDI Leopoldo
VASCONI Giorgio
FALCONI Mario
LO VASTO Vincenzo

1. The above named persons have been convicted by Allied Military Courts and sentenced to death for espionage committed before the conclusion of hostilities in Italy.

2. I have decided that in all such cases the death sentences should be commuted and I accordingly authorize you to review these cases, commute the death sentence and, if you affirm the conviction, impose an appropriate term of imprisonment.

Elmery W. Stone

ELMERY W. STONE
Rear Admiral, USNR
Chief Commissioner

CIO	
DCIO	
Chief Counsel	
CIO	
Italian Section	
CL RKS	
1 JUN 1945	

SECRET

Legal

95A

S/L

1893

4040

ALLIED FORCE HEADQUARTERS
Office of the Assistant Chief of Staff, G-2

AFI-389.701/P2/63

31 May 1945

SUBJECT: Death Sentences passed by AGF Courts.

TO : HQ Allied Commission,
Legal Sub-Commission, AF 394

93A

1. Reference your letter AG/394/L dated 28 May 1945.
2. There is no objection to giving Italian Insurance Agencies official notification of the execution of agents in cases where this is requested by them.
3. It is not considered necessary for each case to be referred to this headquarters.

For the Assistant Chief of Staff, G-2:

LEG	11
CLO	
DCLO	
Chief Counsel	
CIO	
Italian	
CL	

12 JUN 1945
2 JUN 1945

G. E. Jones
G. E. JONES,
Lt. Colonel, G.S.,
G-2 (CI) Section.

SECRET

*psll**94A*

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4040/L.

/lrb.
28 May 1945.

SUBJECT : Death Sentences Awaiting Review.
TO : Chief Commissioner.

As requested I forward herewith the names of the persons sentenced to death for espionage whose cases are being held in this Sub-Commission:

<u>NAME</u>		<u>DATE OF SENTENCE</u>
BENDANDI	Leopoldo	11 April 1945.
VASCONI	Giorgio	11 April 1945.
MEI	Ugo Enzo	13 April 1945.
FALCONI	Mario	17 April 1945.
LO VASTO	Vincenzo	17 April 1945.

Signed W-E B. by P/4 Lullala
W. E. BEHRENS,
Colonel,
Deputy Chief Legal Adviser.

SECRET

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

GAW/1c.

28 May 1945.

AC/4040/L.

SUBJECT: Death sentences passed by AMG Courts.

TO: AMHQ. G-2.

1. A request has been received from an Italian Life Insurance Association for official confirmation of the fact that DONNINI Domenico was executed pursuant to a sentence of an AMG Court, as a claim has been presented against the association under a life policy issued on Donnini's life.

2. Donnini was executed on 6 May 1944 following conviction for conspiracy to commit sabotage, possession of explosives and assaulting a member of the Allied Forces with intent to kill.

3. The Minister of Justice was informed confidentially in accordance with the established procedure of Donnini's execution, place of burial etc.

4. As this question may arise again, may I please be instructed on the following points:

- a) May the information in para 2 be given to the Assurance Association?
- b) If similar enquiries are received hereafter for the same purpose in connection with other persons executed for espionage or sabotage, may the information be given or should each individual case be referred to you?

For the Chief Commissioner.

W. E. D. JONES
W. E. D. JONES,
Colonel,
Deputy Chief Legal Advisor.

SECRET

92A

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

AC/4040/L.

May 1945.

SUBJECT : Trial of Espionage Cases.

TO : AFHQ. G-2.

1. This Commission understands that there are a number of persons who have been arrested by allied security agencies as enemy agents and whom it was originally intended to bring to trial before AMG Courts but who have not yet been formally committed for such trial.
2. It is believed to be your view with which this Commission fully concurs that it is no longer necessary or desirable for persons who were apprehended before the conclusion of hostilities to be brought to trial. It is understood that you have in fact issued orders that all such persons be interned.
3. Naturally if any persons are apprehended in the future who have been guilty of acts of espionage since the conclusion of hostilities such persons will be brought to trial in the usual way.
4. It would be appreciated if this Commission could be officially informed that the above policy represents the views of your Headquarters, in order that an appropriate disposition may be made of the very limited number of legal officers at the disposal of this Commission some of whom might otherwise have to be kept available for the trial of the enemy agents who have not yet been tried.

For the Chief Commissioner.

C. R. UPJOHN, Brig.
VP CA Sec. Hq AC.

157-14

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

7 May 1945

G-5: 250.5-3

SUBJECT: Trial of Espionage Cases.

TO : Headquarters, Allied Commission, APO 394.

Reference your AC/4040/L dated 19 April 45.

1. We will inform G-2 of your requirements before trial, namely:
 - a. 21 days notice of the date on which the prosecution case will be ready for trial.
 - b. where the crime took place in Italian Government territory, the documents in the case.
 - c. the present address of the accused and witnesses.
 - d. transfer of the accused to the place of trial at least 7 days before trial.

2. With regard to para 4 of your letter it appears that para 4 of our letter of 16 April may have been misunderstood. The officers available to static HQs and Replacement depots will normally be a floating population and further it is difficult to anticipate military requirements: therefore it would be impracticable to detail individual officers in advance of your requirements. It is the intention that when a court is known to be required you should arrange locally with the most appropriate HQ for the loan of suitable officers in the same manner as additional officers are obtained for the Naples courts (British Area HQs normally keep a roster of officers in the area with legal experience -- primarily with a view to providing suitable defending officers for Courts Martial). Your estimated requirements were requested so that instructions could be issued by this HQ to the appropriate HQs and some indication given to them of your probable requests.

3. Reference para 5 of your letter DJAG has stated as follows:

"I regret it is impossible for me to lend Lt-Col. Raphael as suggested in para 5 of AC letter of 19 April.

I had agreed to release this officer to A.C. for permanent employment as Chief Judicial Officer subject to the approval of the Judge Advocate General.

In that event a replacement could have been made as there would have been a vacancy on establishment.

The Judge Advocate General, however, would not agree to release and I cannot therefore spare him."

T.R. Ham
Biggs

f CHARLES M. SPOFFORD,
Brigadier General, G.S.C.,
Assistant Chief of Staff, G-5.

Copy to: G-2.

LEG. SUB COMMISSION

CLO

→ DELO

Chief Counsel

→ CPO

Itellen

CL RKS

10 MAY 1945

NA.

See file with VPCASec
Copy of letter quoted is
attached of

4040
SECRET

90A

HEADQUARTERS EMILIA REGION
ALLIED MILITARY GOVERNMENT
APO 394

REF: RIX/LE/668/121

WHL/asm.
3 May 1945.

SUBJECT: Espionage Cases.

TO: Headquarters, Allied Commission, APO 394 (for
Deputy Chief Legal Advisor).

1. Has any policy been determined as to the disposition of espionage cases pending but untried at the time hostilities cease.

For the Regional Commissioner:

*W. H. Levit*WILLIAM H. LEVIT
Lt. Col., J.A.G.D.
Regional Legal Officer.

LEG.	JOINT COMMISSION
CLO	
→ DCLO	
Chief Counsel	
→ CJO	
Italian Section	
CLERKS	
5 MAY 1945	

*See file now with JP**in this question**to**B/F when I am*SECRET

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/mt.
3 May 1945.

AG/4040/L.

SUBJECT : Trial of espionage and sabotage cases.

31 MAG 1945

TO : VP, CA Sec.

1. The surrender of the German forces in Italy raises the question of the desirability of continuing the trials in AMG Courts of enemy espionage and sabotage agents.
2. The purpose of these trials, and of the heavy sentences imposed, is to be deterrent and to protect the security of the Allied Forces.
3. There are at present a large number of agents who have been apprehended and whose cases are being prepared by the security authorities but are not yet ready for trial. It is suggested that in present conditions in Italy there can be no object, on security grounds, in the trial of any offenders previously apprehended, and still less in the imposition of death sentences. This argument will apply more strongly when hostilities are officially declared to have ended throughout Europe.
4. Naturally, if offences of this kind are committed in the future, the offenders must be tried in AMG Courts, and if an investigation of any offences already committed suggests that a group of enemy agents is likely to be still at large and active in AMG Territory, it may be desirable to proceed with these trials for deterrent purposes. In other circumstances, however, it is suggested that the trials of enemy agents by AMG Courts could safely be discontinued.
5. It should be observed that in the case of all agents who are Italian subjects, charges of collaborating with the Germans can be preferred by the Italian Courts under the Fascist Sanctions decree. It would seem to be more satisfactory for such persons to be handed over to the Italian Courts than to be tried by AM Courts.
6. The present situation also raises the question of the confirmation of the death sentence in some 5 espionage cases which are at present awaiting review. While the death sentence is recognized as the normal deterrent penalty for these cases in war, the necessity for such deterrent action has presumably ceased and it is for consideration whether all sentences not so far executed should not be commuted. It would be appreciated if the Chief Commissioner could be asked to give a decision on this policy, particularly in view of the typing and other work involved in the preparation of these cases for review by him.

W. B. Bennett
W. B. BENNETT, Colonel,
Deputy Chief Legal Advisor.

4584

88A

HEADQUARTERS ALLIED COMMISSION
 400 394
 CIVIL AFFAIRS SECTION

AC/LOG/L.

WBB/pa.
19 Apr 45.

SUBJECT : Trial of Espionage Cases.

TO : AFHQ, G-5.

1. The assistance indicated in your G-5: 85.4 of 16 April 1945 is appreciated.

2. In order that the necessary courts for the trial of alleged spies may be convened from time to time and the estimated requirements for such courts detailed, it will be necessary for G-2 to forward to the Legal Sub-Commission in each case :-

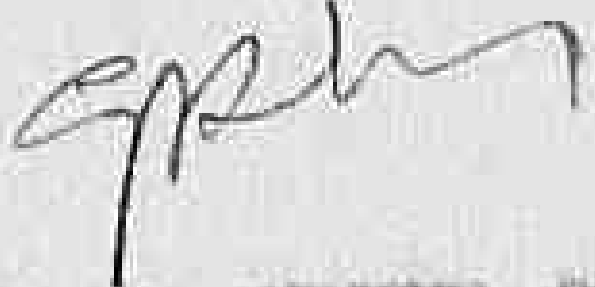
- a. The proposed date at which all prosecution witnesses will be made available for trial. Not less than 21 days notice of this date should be given in view of the time necessary for (a) communicating with the State R. concerned and securing the loan of the necessary legal officers, (b) making arrangements for the holding of the court and the consequential postponement of other work, (c) the defending officer to interview the accused and secure the attendance of the defence witnesses, if any.
- b. The documents in the case, in order that where the crime took place in Italian Government territory the trial may be duly authorized and the charges correctly settled in accordance with Italian law.
- c. Any information available as to the present addresses of the accused and the witnesses in order that the most convenient place in AMG territory may be selected for the trial.

3. In order that unnecessary delays may be avoided in such cases it will probably be necessary for the accused to be transported to the proposed place of trial at least 7 days before the actual date of trial in order to give time for the defending officer to prepare the defence and secure the attendance of the defence witnesses.

4. It is noted that legal officers may be loaned on a "short term" basis. It will obviously be an advantage if the same legal officers could be detailed from time to time and it is suggested that this Commission be informed of the Station and identity of the officers proposed, as this may well be an important factor in fixing the place of trial.

5. It is believed that the JAG, Col Lord Russell of Liverpool, might be prepared to loan Lt.Col. Raphael for work on these courts on a temporary basis. Could this be considered, please?

For the Chief Commissioner :


G. R. UPJOHN, Brig.,
VP CA Sec, Hq AC.

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

Legal 87A
5625

G-5: 383.4

16 April 1945

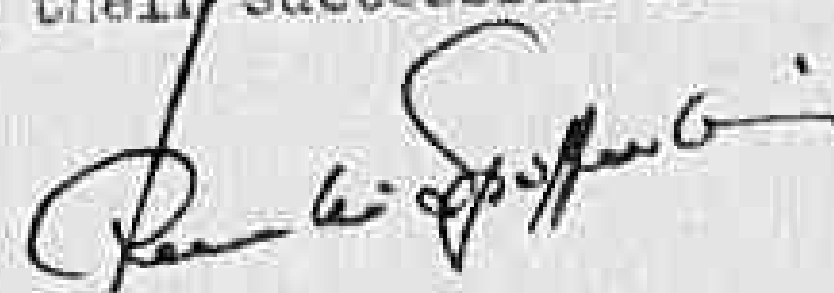
SUBJECT: Trial of Espionage Cases.

TO : Headquarters, Allied Commission, APO 394.

Reference your AG/4040/L dated 6 April.

1. From the beginning of AMG, the trial of spies has been accepted as a Military Government concern and the procedure and practice is well established and well known. Proclamation No. 1 in Italy recognizes espionage as the first crime against the Allied Military and provides for trial of such cases in AMG Courts. As recognized by G-2, valuable assistance to the Military has been rendered by AMG in this respect.
2. At this stage of the campaign it is most undesirable to start trying spies by court martial. Among the reasons against doing so are:
 - a. Every effort should be made by AMG to relieve the military of additional tasks. To shift the burden to courts martial would impair the excellent record of AMG in this respect.
 - b. Various unnecessary difficulties will arise as to the composition, procedure, rules of evidence etc., of courts martial.
3. It is therefore considered that the trial of spies should continue to be the responsibility of AMG.
4. It may well be that you would find it helpful to have assistance from other Army branches of additional officers with legal background to sit on AMG courts. In principle G-1 British and American are favorably disposed to the issue of instructions to static headquarters and replacement depots to lend you officers with legal background on a short term basis if military considerations allow. Before issuing such instructions they will require to know details of your estimated requirements, including particularly the areas where and periods during which you are likely to require them.
5. The place of trial is for AMG authorities to decide, having due regard to the convenience of those responsible for producing the accused and the witnesses. G-2 is being informed that, owing to withdrawal of Allied Commission personnel in Italian Government territory, some inconvenience to them with regard to place of trial must be expected.

6. Your difficulties are appreciated but it is considered that AMC must continue to support the military in their successful efforts to combat enemy espionage.



CHARLES M. SPOFFORD,
Brigadier General, G.S.C.,
Assistant Chief of Staff, G-5.

Copy to: RAAC
G-2
AG

	LEG. AT. GUD. COMMISSION
	CIO
→	DOLO
	Chief Counsel
→	CIO
	Italian Section
	CL. RAS
	15 APR 1945

27

SECRET

HEADQUARTERS ALLIED COMMISSION
APC 394
CIVIL AFFAIRS SECTION

AG/4040/L.

6 April 1945.

SUBJECT : A.M.G. Courts - ROME.

TO : AFHQ, G-5 Section.

1. In reply to your G-5: 250-5-5 of 3 April 1945 the desirability for espionage cases to be heard before military tribunals is fully appreciated.

2. The trial of spies is basically a military and not a military government concern, and the normal procedure would be for such cases to be heard by Courts Martial. A.M.G. undertook, at a time when a reasonable supply of A.M.G. legal officers was available, to render assistance to the military formations concerned by providing courts for these cases; this Commission is naturally ready and willing to continue this assistance so long as it is in a position to do so.

3. In accordance with the recent directive from GCS all AMG legal officers have been, or are in the process of being, withdrawn from Italian Government Territory, including ROME, with the exception of one liaison officer at BARI and HQ Legal Sub-Commission in Rome. HQ Legal Sub-Commission obviously has neither the personnel nor the time to conduct such trials itself.

4. Of the 84 officers assigned to Legal Sub-Commission, 35 are for operational reasons and at the request of IV Corps concentrated in the north, 38 are fully employed in TOSCANA, UMBRIA MARCHE and EMILIA regions, handling spy trials and other AMG cases, 4 are in NAPLES and BARI and the remainder in HQ.

As soon as any substantial part of the north is occupied the 38 officers above mentioned will be reduced and some of the existing activities curtailed.

5. There are at present two spy courts operating, in FLORENCE and RICCIONE, and it is intended to continue these courts as long as it is practicable to do so and there are cases to be tried. You will however appreciate that there are no officers available to form a spy court anywhere in Italian Government Territory. Such a court requires a minimum of 4 legal officers, and for satisfactory continuous working 6. On the basis of the time taken to dispose of previous cases one court could expect to hear 11 cases in 5 weeks.

6. On the grounds explained above it is not possible to put forward any proposal for the establishment of an AMG Court in ROME so long as this Commission is expected to continue to discharge throughout Military Government Territory its present commitments.

- 2 -

The following suggestions are made :-

- (a) Cases should be moved to FLORENCE or RICHMOND until such time as the present city courts have to close for lack of personnel;
- (b) Cases should be moved to Perugia, where in present conditions courts could be convened from time to time;
- (c) When neither of the above is possible cases should be heard by Courts Martial under Military Law.

For the Chief Commissioner.

gph
C. E. DEJON, Brigadier,
VP C & Sec HQ AC

Wm/ww.

SECRET

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

FTH/wsw

3 April 1945

G-5: 250.5-3

SUBJECT: AMG Court for ROME.

TO : Headquarters, Allied Commission, APO 394.

Reference RAAC letter AG 250.5 (G2)-G/44 dated 20 March (copy to you).

1. This letter was referred to G-2 at this HQ for their comment who replied as under.

"(1). The recommendation that the large majority of future espionage cases should be tried by Italian courts is strongly objected to.

(2). The procedure of Italian courts is extremely slow and from the cases they have dealt with up to date there is evidence that sufficiently severe sentences will not be inflicted.

(3). The deterrent effect of the death penalty cannot be too strongly stressed. Of the 40 odd cases in which spies have been executed since the arrival of the Allies in ITALY all have been sentenced by AMG Courts.

(4). There are at present 11 cases of espionage awaiting trial in ROME and 12 cases in other areas under AFHQ command which are likely to be recommended for trial by AMG Courts. It is therefore recommended that an AMG Court be constituted first in Rome to try cases now ready and subsequently that it be moved to FLORENCE or some such suitable centre for the trial of the other cases mentioned above."

2. This Section is in agreement with the views expressed by G-2 concerning the necessity for trial of espionage cases in Allied Military Courts.

3. Your proposals for dealing with this problem are requested.

LEGAL SUB COMMISSION	For Asst. Chief of Staff, G-5:
CLO	7
DCLO	
Chief Counsel	1
CJO	
Italian Section	
CL RKS	
5 APR 1945	

F. T. Hammond Jr.
F. T. HAMMOND, JR.,
Colonel, G. S. C.,
Legal Adviser.

SECRET

CONFIDENTIAL

ROME AREA ALLIED COMMAND
APO 794, US ArmyTKB/JWF/pab
20 March 1945

AG 250.5(G-2) - (G/44)

Subject : AMG Court for ROME after the departure of
LAZIO-UMBRIA Region, AMG.

To : Commanding General, Allied Force Headquarters.

1. Since 5 June 44 the LAZIO-UMBRIA Region, AMG (formerly Region IV, AMG) has provided AMG courts in the city of ROME to try those cases which may properly be presented to them. The cases of particular interest to this headquarters have been the security cases; that is, the trials of persons accused of espionage or sabotage. Until 1 March 45 there have been 13 such cases, involving 27 individuals.

Since 15 Aug 44 trials have been "elective" in the sense that cases may appear before Italian Military Courts or AMG Courts. The decision as to court of reference is made by the G-2(CI) Section of AFHQ whose policy is to relegate all trials to Italian courts except those which must appear before Allied courts to protect military security or for other special reasons.

At this time the cases of 9 accused persons are pending before an AMG court. Three of these cases should be completed prior to 1 April 45; the other cases may not come to trial because of lack of evidence. There are 13 cases pending before an Italian Military Court.

2. It is understood that after 1 April 45 the legal officers (AMG) available to and under the control of Legal Sub-Commission, Allied Commission, will not be present in ROME. Each AMG Court requires the services of at least four legal officers. If no legal officers are available to form a court, then future security cases originating with this command can be handled in one of the following ways :-

a. A court operating North of ROME can be sent to ROME for a specific trial or trials.

b. The accused and witnesses in ROME could be sent North so that the cases may be tried at the location of some existing AMG Court.

Recd HQ AC
6 APR 1945

c. The trials, instead of being heard by an AMG Court, could be heard by Courts Martial created either by the U.S. Army or the British Army.

d. To obviate trials either by AMG Courts or by Courts Martial all cases could be handed over to the Italian Military Courts for disposal.

3. Discussion of Alternatives Mentioned Above.

a. Reference 2 (a). This plan is not considered feasible because of the time consumed in travelling. Consider a court moving from FLORENCE to ROME. Two days will be consumed in travel and a minimum of two days to hold the court, making a total of four days in which a court designed to operate in FLORENCE and take care of cases originating in that area, is inoperative. Should we have a case of sufficient importance, that loss of time would be justified. However, it is anticipated that trips of this nature would not be encouraged by AMG.

b. Reference 2 (b). This plan would be more inconvenient than Plan (a) because it would place upon this headquarters the burden of collecting witnesses, transporting them to the designated place of trial, feeding, housing, and securing witnesses and accused and eventually transporting them back to ROME.

c. Reference 2 (c). This plan is practicable, but it is felt that it would create an unfortunate precedent, inasmuch as since the initial occupation of ITALY espionage and sabotage cases have been handled by AMG Courts. In this connection Legal Sub-Commission, Allied Commission, have stated that "spy" cases should be performed by Army and service unit headquarters rather than by AMG headquarters, but as a service to the Armies they have in ITALY accepted such cases.

d. Reference 2 (d). It is felt that the large majority of future cases could be brought to trial before Italian Military Courts without prejudice to Allied military security.

4. This matter has been discussed with Legal Sub-Commission, Allied Commission, and with Headquarters, LAZIO-UMBRIA Region, AMG. All concerned have been most cooperative, but the crux of the situation would seem to be the availability of legal personnel in this area.

It is asked, therefore, that your advice be given us for the termination of those future security cases which necessitate trial.

Thoburn K. Brown
 Deputy Commander

THOBURN K. BROWN,

Brigadier General, US Army
 Commanding.

Copy to :
 Legal Sub-Commission,
 Allied Commission.

SECRETHEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION/rlp.
26 March 1945.

AC/4040/L.

SUBJECT : Confessions.

TO : Regional Commissioners (Attn: Regional Legal Officers),
UMBRIA-MARCHE, TOSCANA, EMILIA, LIGURIA, PIEMONTE, LOBARDIA and
VENETIA Regions; SCAOS, 5th and 8th Army (Attn: Senior Legal
Officers).

1. In a recent spy trial evidence was given of confessions made by the accused during his investigations. The accused protested that the confessions had been forced out of him and were in several respects untrue. The court disbelieved, or attached no importance to these protestations which were, of course, denied by the officers who conducted the interrogations, convicted the accused and sentenced him to death.

2. After sentence he was again interviewed by CSDIC. CSDIC have forwarded to this sub-commission a full report on this interview. The following is a verbatim extract from part of this report: "Subject's earlier statements now shown to be fabrications produced as the result of harsh treatment. His present story which is accepted as truthful in all essentials, confirms a large amount of previous information...."

3. It is essential that courts should realize the extreme danger of convicting accused persons upon confessions which have been obtained, or which they have reason to believe have been obtained by force.

By command of Rear Admiral STONE:

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

Copy to: File AC/4002/L.

SECRET

S E C R E T

82A

FROM: Col. W. E. BREWSTER.

LEGAL SUB-COMMISSION

RE ALLIED COMMISSION

APO 394

3 March 1945

Dear

Ian Campbell has asked me to reply to your letter about the girl spies and give reasons for the commutation.

On the subject of decisions on review in general and the case of the two girl spies in particular, may I explain the position. In cases in which a sentence other than death is imposed, the case is reviewed exclusively by some member of the Legal Sub-Commission and when the Regional Legal Officer concerned is notified of the decision, it is hoped that a sufficient reason is always given for any variation of the finding or sentence of the trial court. It is the responsibility of the Regional Legal Officer to bring these reasons to the notice of the trial judge if he considers them of sufficient general importance; indeed courtesy may suggest that they should be brought to the judge's notice in any event.

In cases where a death sentence is imposed, the review is made personally by the Chief Commissioner. I do not, of course, suggest that the Legal Sub-Commission does not make a preliminary review of the case. Indeed, I peruse all such cases personally and make my own recommendation to the Chief Commissioner. The Chief Commissioner, however, confines himself to a simple decision for which he never gives reasons in writing and very seldom orally. In cases where he follows my recommendations I can reasonably assume that he has accepted the sum of the reasons I have suggested to him. There have been cases, however, when he has commuted sentences contrary to my recommendation without giving any explanation for the course he has adopted. As a general rule, therefore, I consider that it is safer simply to forward his decision without further comment.

Dealing specifically with the case you mentioned, I did recommend to the Chief Commissioner that both sentences should be commuted and that "a reasonably long term of imprisonment" should be imposed and I suggested a maximum of 15 years of imprisonment. My reasons for this course were the

S E C R E T

sex of the accused, the age of the accused, the report of the security officers on the conduct of the accused, and the lack of unanimity in the court.

It is not possible to lay down a general rule as to cases in which a death sentence should not be imposed. However, you probably know that the record in all cases where a death sentence is imposed have to be typed in this office for submission to the Chief Commissioner. As a matter of fact, the Chief Commissioner always commutes sentences on juveniles of either sex up to and including 19 years of age and also all sentences on women of whatever age. He has not given any general ruling on either of these points, but I know that that is the policy which he follows. You may think, therefore, in future cases, if only to save typing by this sub-commission, that it is unnecessary for the trial court to impose a death sentence in such cases.

Yours

Colonel H. G. Willmer
Regional Legal Officer
Venezia Region

File ()
 HEADQUARTERS ALLIED COMMISSION
 APC 394
 LEGAL SUB-COMMISSION

(8/A)

AD/4040/L.

/st.
 2 March 1945.

SUBJECT : Disposition of Personal Property of Enemy Agents.
 TO : Public Safety Sub-Commission
 (Attn: Col BOWEN).

1. In answer to your oral request we have to advise you that we have been unable to discover any directives dealing with the disposition of the possessions which may be found on enemy agents.

2. The property of a person arrested on suspicion of espionage should be treated as that of a person arrested on any other charge, e.g. murder. The prisoner retains possession of his property subject to custodial or security exigencies. Such property as may be removed from his possession must be held subject to any order the Court may make; or, in the event there is no such order, must be returned to the prisoner upon his discharge.

3. If the alleged enemy agent is ultimately convicted, the trial court should be asked at the conclusion of the trial to make an order of confiscation with respect to such property as may properly be said to be an integral part of the mission of espionage. Such property could include for instance, a radio transmitter, or photographic equipment. It would not include personal clothing. Money could be made the subject of a confiscation order depending on whether the facts of the case showed it to be connected with the mission of the accused.

4. The strict legal position is in the event of the execution of an enemy agent, that such property as is not confiscated, is held by an appropriate public official for the benefit of his executor or legal representative.

E. L. Palmeri

E. L. PALMERI,
 Major, Spec-Res,
 Acting Chief Counsel.
 for Chief Legal Advisor.

Copy to: ~~AD/4014/5/L.~~

✓ 4040
HEADQUARTERS
TOSCANA REGION
ALLIED MILITARY GOVERNMENT

80A

File Ref:

RVIII/19/2000

Date: 5 Feb. 45

SUBJECT: Execution of Death Sentences.

TO : LEGAL SUB-COMMISSION, Headquarters, AG.

47A

1. See your directive, 25 January 45, AC/4040/L, above topic.
2. It has been arranged that following the imposition of sentence of death, the data required under paragraph 2, (a) will be sent by messenger by the Central Prosecutor's Office, Florence to the Provincial Legal Officer, Florence Province, who in turn will dispatch to the Legal Sub-Commission, Headquarters Allied Commission, in my name, the required signal, with copies to the Headquarters, Fifth Army AMG and Regional Legal Officer, Toscana Region.
2. No sentences of death have been imposed since the receipt of the directive.

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

27



LEGAL SUB-COMMISSION

CLO

DCLO

Chief Counsel

CJO

Italian Section

CL-RKS

8 FEB 1945

HEADQUARTERS
 AMG FIFTH ARMY
 APO 464 U.S. ARMY

HMD/jm

208/53

29 January 1945.

SUBJECT: Execution of Death Sentences in
 Espionage Cases.

TO : R.I.O., Toscana Region (through H.C.)

1. Reference Legal Sub-Commission Directive
 AG/4040/L dated 25th January 1945, it is desired that
 the required signal to HQ, Allied Commission in res-
 pect of death sentences imposed in espionage cases
 tried within the present Fifth Army Area be sent by
 your HQ.

2. In order that the necessary information may
 be available to you as soon as possible after imposition
 of sentence and without waiting for receipt of the
 Record, the Officer i/c Prosecution's Office in Florence
 will be responsible for sending to R.I.O., Toscana
 immediately on conclusion of a case in which a death
 sentence is imposed a statement showing:-

- (i) The name of the person convicted,
- (ii) The date of sentence,
- (iii) The place of trial,
- (iv) The place where the person convicted is held
 in custody at the time of trial.

3. Please confirm that this arrangement is sat-
 isfactory to you.

Chief Counsel

For the Commanding General:

CJO

Station

CL Copy to: HQ Allied Commission,
 (for Legal S/O)
 81 JAN 1945 P.I.O., Florence.

Lt. Col. Waugh,
 (Officer i/c Prosecution's Office)

H.M. DICKIE,
 W/Cdr., RAF.,
 Legal Officer,
 A.M.G. Fifth Army.

78A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rlp.
27 January 1945.

AC/4083/58/1.

SUBJECT : Torture by CIC.

TO : VP, CA Sec.

1. Herewith for the information of the VP, the record in the case of COSTA Carla. The documents are sent solely to enable the VP to raise with higher authority the desirability of the discontinuance of practices of the nature which were admitted in the course of the case. There is no need for the VP to read any of the documents except the portions of the record which are flagged.

2. COSTA Carla is a girl who was born on the 1st July 1927. She was interrogated on and after the 23rd October 1944 by agents of the CIC. According to the evidence of the fourth witness, Special Agent Richardson, she admitted on 23 October that she was an enemy agent and made a voluntary statement on that date.

3. The sixth witness, Gordon M. Messing of the CIC, gave evidence of the steps that were taken after the statement had been given to obtain further intelligence information. He states in examination in chief, "We adopted various psychological tricks. We starved her and limited her sleep. American Army nurses were present to see she did not suffer unduly. The accused went two days without food except for coffee and toast and fruit juice. She was deprived of sleep on the night of the 26th and 27th for one night only. About the 26th or 27th a telegram purporting to be addressed to Count Sforza was prepared asking for the arrest and trial of her parents for harboring spies; a bogus news release was also got out as to what would happen to the accused if she was sent to America."

4. The accused herself amplified the story slightly in her own evidence.

5. The decision on review has not yet been communicated to the Regional Legal Officer concerned so that it would be appreciated if the record ~~will~~ be returned as soon as possible.

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

Incl: Record of COSTA case.

Copy to, File AC/4040/L.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

77A

AC/4004/L.

25 Jan

SUBJECT : Execution of Death Sentences.

TO : See Distribution List.

1. AHC has laid down the procedure for procuring the carrying out of death sentences imposed by Allied Military Courts.

2. The procedure as between this HQ and Regions or AG of Armies will be as follows :-

(a) As soon as possible after imposition of any sentence of death, HQ will inform this HQ by signal of :-

- (i) The name of person convicted
- (ii) The date of sentence
- (iii) The place of trial (where thought necessary, specifying province)
- (iv) The place where person convicted is held in custody at time of trial.

(b) On receipt of this information, this HQ will arrange for a formation to be designated to carry out the sentence if confirmed.

(c) Upon expiry of the period for due presentation of a Petition for Review or upon earlier receipt of a Petition for Review, the HQ will forward the record to this HQ for review by the Chief Commissioner.

(d) Immediately a sentence has been confirmed or commuted, this HQ will notify all concerned, including the Region in which the trial took place and the AG of the Army concerned.

(e) If the sentence is confirmed, this HQ will make all necessary arrangements with the formation designated (see (b) above) and, when the execution has been carried out, will forward the record to the Region concerned for safe custody.

3. It will be seen that the responsibility of Regions is virtually confined to supplying the information required under para 2 (a) : without this information this HQ cannot make the necessary arrangements and therefore HQs will please ensure that such information is supplied accurately, fully and promptly.

By command of Rear Admiral STONE :

W. E. HERMAN,
Colonel,

Deputy Chief Legal Advisor.

- (i) The name of person convicted
(ii) The date of sentence
(iii) The place of trial (where thought necessary, specifying province)
(iv) The place where person convicted is held in custody at time of trial.
- (b) On receipt of this information, this HQ will arrange for a formation to be designated to carry out the sentence if confirmed.
- (c) Upon expiry of the period for due presentation of a Petition for Review or upon earlier receipt of a Petition for Review, the HQ will forward the record to this HQ for review by the Chief Commissioner.
- (d) Immediately a sentence has been confirmed or commuted, this HQ will notify all concerned, including the Region in which the trial took place and the AMG of the Army concerned.
- (e) If the sentence is confirmed, this HQ will make all necessary arrangements with the formation designated (see (a) above) and, when the execution has been carried out, will forward the record to the Region concerned for safe custody.
3. It will be seen that the responsibility of Regions is virtually confined to supplying the information required under para 2 (a): without this information this HQ cannot make the necessary arrangements and therefore HQs will please ensure that such information is supplied accurately, fully and promptly.

By command of Rear Admiral STONE :

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

DISTRIBUTION :

SCAO 5th Army	(3)
SCAO 6th Army	(3)
R.C. (For R.I.O.) Sicilia Region	(1)
" " " " Southern Region	(3)
" " " " Lazio-Umbria Region	(3)
" " " " Abruzzo-Marche Region	(3)
" " " " Sardegna Region	(1)
" " " " Toscana Region	(3)
" " " " Emilia Region	(3)
" " " " Liguria Region	(3)
" " " " Piemonte Region	(3)
" " " " Lombardia Region	(3)
" " " " Venezia Region	(3)

FROM : COLONEL W. E. BEHRENS

LEGAL SUB-COMMISSION,

HEADQUARTERS,

ALLIED COMMISSION,

A.P.O. 394.

23 January 1945.

AC/4040/L

Dear

By memorandum CC/2602 of 22 January 1945 the Chief Commissioner has directed that a typewritten copy of the transcript is to be forwarded in all cases where the death sentence has been imposed.

Needless to say I fully realize the Chief Commissioner's position. I do myself review all the cases before I send them to the Chief Commissioner and I know how badly written the records are and how much time is consumed in studying them.

At the same time the difficulties in producing a typewritten transcript are considerable. In the first place all spy cases are held in camera by order of Security and I conceive that if the record is to be typed the work must be carried out by an EM/OR.

At the present moment we have seven spy cases for review. One of these cases consists of approximately 20,000 words. The others average about 6,200 words. I am informed by my clerks that to copy a badly written manuscript involves typing at the rate of 20 words a minute. It would be seen therefore that the long case referred to would take one clerk some 16 hours. The other cases, which are all shorter than the average, would take about 5½ hours a case.

There are two Espionage Courts sitting permanently in Florence. They dispose of about four cases a week; in most cases the death sentence is imposed. There is a similar court in 8th Army area; the work there is less but spies are continually being arrested.

I think that you will see from the above that to comply with the Chief Commissioner's order I shall require the whole time services of an EM/OR typist together with a typewriter for his use. This, of course, is only an estimate and in any case the situation may vary as time passes.

Would you be good enough to explain the situation to the Chief Commissioner. Perhaps he will issue the necessary order to Establishment Section to have the extra clerk assigned to this Sub-Commission.

and typewriter

2.

Incidentally in the 20,000 word case before mentioned the time for review has expired and I have already written the covering letter to the Chief Commissioner. If the record of this case is to be typed perhaps the additional clerk can be assigned immediately as my existing staff cannot possibly take on this extra work.

Yours

Major J. A. Quayle,
Staff Officer to Chief Commissioner,
Headquarters,
Allied Commission.

22

4040 ✓
HEADQUARTERS ALLIED COMMISSION
Office of the Chief Commissioner
APO 394

EWS/jed

75A

CC 2602

22 January 1945.

MEMORANDUM TO: Chief Legal Advisor.

In reviewing death sentences, I find that I have great difficulty in both reading and evaluating the transcript, and the time consumed is much greater than it would be if a typewritten copy of the transcript were presented to me for review, together with the original court transcript.

Will you therefore kindly arrange to have a typed copy of the transcript made and submitted with each case.

Elley W. Stone

ELLEY W. STONE
Rear Admiral, USNR
Chief Commissioner

2 JAN 1945

21

4040

8372

54A

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

(20) January 1945

SUBJECT: Execution of Convicted Persons

TO : Headquarters, Allied Commission,
(Att: Legal Sub-Commission)
APO 394.

The new directive on the above subject was issued 18 January 1945, AG 014.53/047 CEG-O. Copies are being forwarded to President, Allied Commission as one of addressees.

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

Isnt FM Alexander
the President?
If so, it is a pity not
to have sent it here
instead of to them
our HQ!!

F. T. HAMMOND, Jr.

F. T. HAMMOND,
Colonel, Ord.,
Legal Advisor.

LEGAL SUB-COMMISSION

CLO

DCLO

Chief Counsel

CJO

Italian Section

CL RKS

21 JAN 1945

To note: it has
not yet been received by
legal SC
10
0730
W. Tan

Since arrived

See
file 72A

0645

File 4040

73A

ASAC C-2

427

24 JANUARY 1943

RECEIVED

REPORT TO

RECEIVED IN RESEARCH DIVISION

REPORT TO ASAC C-2 FOR THE DIRECTOR OF THE FBI

PAGE ONE TO YOUR FILE NUMBER 100-100000-100000-100000

FOR THE DIVISION OF INVESTIGATION TO THE DIRECTOR OF THE FBI

RECEIVED IN RESEARCH DIVISION TO THE DIRECTOR OF THE FBI

FOR THE DIVISION OF INVESTIGATION TO THE DIRECTOR OF THE FBI

PAGE TWO TO THE DIRECTOR OF THE FBI

RECEIVED IN RESEARCH DIVISION TO THE DIRECTOR OF THE FBI

71A

13

SECRET

22 JAN 1945

RHF/awm

ALLIED FORCE HEADQUARTERS
APO 512

AP 694
 : : : : :
 : **SECRET** :
 : Auth: SAC :
 : Initials: :
 : 18 January 1945 :
 : : : : :

13 January 1945

AG 014.53/047 GEG-C

SUBJECT: Execution of Convicted Persons.

TO : Commanding General, 15th Army Group, APO 777.
 President, Allied Commission, APO 394.
 General Officer Commanding, Number 1 District.
 General Officer Commanding, Number 3 District.
 Commanding General, Rome Area Allied Command, APO 794.
 Commanding General, MTOUSA, APO 512.

1. When any person is sentenced to death by an Allied Military Court under jurisdiction of the Allied Commission, the Allied Commission will inform this headquarters of that fact, stating the name and place of the Court, the name of the accused, the date of sentence and the place where the accused is confined. If the accused is in custody in the area forward of Army rear boundaries, similar notice will be given by the Allied Commission to Headquarters, 15th Army Group.

2. In the event that the accused is in custody in the area forward of Army rear boundaries, Headquarters, 15th Army Group, will issue an order designating the formation or unit which will perform the execution if the sentence is confirmed and directing that such formation or unit execute the sentence upon receipt of the following documents: (a) signed original confirmation of the death sentence and (b) a certified true copy of the power to confirm death sentences. Copy of such order will be sent to Allied Commission.

3. In all other cases this headquarters will issue a like order designating the formation or unit which will perform the execution if the sentence is confirmed and directing execution of the sentence upon receipt of the documents mentioned in paragraph 2. Copy of such order will be sent to Allied Commission.

4. Upon confirmation of the sentence in a case referred to in paragraph 2, the Allied Commission will forward the signed original confirmation of the death sentence and certified true copy of the power to confirm death sentences to Headquarters, 15th Army Group, unless such headquarters shall have instructed the Allied Commission to forward the documents directly to the designated unit or formation.

5. Upon confirmation of the sentence in a case referred to in paragraph 3, the Allied Commission will forward the signed original confirmation of the death sentence and a certified true copy of the power to confirm death sentences to the designated formation or unit.

(X) Army rear body kept on a heap
 in Room of Major PINCKLEY (HANA)
 Room 60 Floor 7

SECRET

SECRET

AFHQ Ltr, AG 014.53/047 GEG-G
 dtd 18 January 1945 (Cont'd)

6. The designated formation or unit will be responsible for performing the execution with the least possible delay following receipt of the documents mentioned in paragraphs 2 - 5.

7. Upon completion of the execution the designated formation or unit will notify the Allied Commission, this headquarters and in cases referred to in paragraph 2, Headquarters, 15th Army Group, and will return the documents referred to in paragraphs 2-5 to the Allied Commission.

8. In the event that notification of sentence has been made pursuant to paragraph 1 and the sentence is not confirmed, the Allied Commission will so inform this headquarters, in appropriate cases 15th Army Group, and any formation or unit which may have been designated pursuant to paragraphs 2 or 3.

By command of Field Marshal ALEXANDER:

W. C. Alexander
 Colonel, AGD,
 Acting Adjutant General.

DISTRIBUTION:

2 - Ea Addressee
 1 - G-1 (A)
 1 - G-1 (B)
 1 - G-2
 1 - G-5
 1 - JA
 1 - FMG (A)
 1 - FMC (B)
 2 - AG Records
 1 - AG M & D

DISTRIBUTION COS.

1 copy (13) COS
 1 " (14) CA Sec.

SECRET

Baraldi + Boni
Case found in
Region IX

10900/142/2

4083/57

INCOMING MESSAGE

HEADQUARTERS ALLIED COMMISSION

Originator's Reference: F 87484
 Date Time of Origin: JAN 191014A

Message Centre No: C/8580
 Date Time Recd: JAN 192100A
 Precedence: ROUTINE

FROM: AFHQ SIGNED SACRED CITE PHGEC
 TO: ACTION: ALCON

SECRET

SECRET.

Rear 9892 of 15 January. Subject is BONI THERA and BARALDI GIOVANNA.

Please furnish in this and future cases in addition to name of accused and fact of sentence of death the following information: name and place of court; date of sentence; place where accused is in custody, → specifying whether place is forward of army rear boundaries or not; name of formation or unit having custody, and whether formation or unit is US or British.

AC Dist

Action - Legal SC
 Info - A/pres
 Chief Commissioner
 CA Sec 17
 File (2)
 Float

ACTION

SECRET

HEADQUARTERS

JAN 19 15

HEADQUARTERS ALLIED COM HIGH
APO 394
CIVIL AFFAIRS SECTION

67A

AC/4040/ET. *Transferred to 4052/2/L*

WEB/ep.
9 January 1945.

SUBJECT : Execution of Prisoners.

TO : AFHQ G-2.

1. The Minister of Justice has requested that he may be officially notified of the details of persons who are executed by the Allies after sentence of death. He states that he requires this information for the purpose of maintaining his civil records.

2. It is presumed that there can be no objection to this information being supplied in cases where the accused is condemned for offences not connected with security e.g. for the murder of an Allied soldier.

3. Would you please state whether you have any objection to this information being communicated in cases of security interest. It has already been explained to the Minister that, if given, the information will have to be treated as highly confidential and that it will probably not be given until a reasonable time has elapsed after the execution.

For the Chief Commissioner :

G. R. Upjohn

G. R. UPJOHN, Brig
VP CA Sec
Dep COS AC

BF 30/1

4040 ✓

C. A. Sec 7002
(66n)
PTT/113r

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

4 January 1945

G-5: 383.4

SUBJECT: Death Sentences.

TO : Headquarters, Allied Commission, APO 394
(Attn: Civil Affairs Section.)

Ref. your letter of 30 December 1944. — 65A

1. This matter was held pending return of JAG from Washington.
2. G-5, G-2 and JAG have now agreed a directive in effect carrying out intention of your letter of 26 Oct. It is hoped this will be issued shortly. — 49A
3. Interim cases may be handled on substantially the same basis.

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

F. T. Hammond Jr.
P. T. HAMMOND JR.
Colonel, Ord,
Legal Adviser.

15

LEGAL SUB COMMISSION	
CIO	
DOLO	
Chief Counsel	
CJO	1c
Italian Section	
CL RKS	
6 JAN 1945	

N.A

1c
6 Jan 45

4041

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

65A

AC/4540/L.

1386/ep.
30 December 1944.

SUBJECT : Death Sentences.

TO : A.F.M.C. G-5.

1. (a) On 26 October 1944, by letter ACC/4040/L addressed to AFHQ G-2, it was pointed out that delay had been taking place in carrying out death sentences, particularly in espionage cases, and a revised procedure based on our experience was suggested.

(b) On 9 November 1944 a copy of that letter was sent to AFHQ G-5.

(c) The question was further discussed with a staff officer from AFHQ G-5 at the HQ on 14, 15 and 16 November 1944.

(d) On 4 December 1944 this HQ by signal, reference number 7558, requested early confirmation of the procedure to be adopted : to which a reply, P63454 of 5 December, stated that the draft of the directive to be issued had not yet been agreed.

2. Over two months have now elapsed since this question was first raised. A large number of alleged spies have recently been tried or are awaiting trial in both 5th and 8th Army areas. It is therefore very strongly urged that a directive be issued in the very near future.

For the Chief Commissioner:

G. R. Upjohn
G. R. UPJOHN, Brig
VP C A Sec
Dep COS AC

Copy to : AFHQ G-2.

64A

APHQ G 2 RPTD APHQ G 5

8099

13 DECEMBER

ROUTINE

SECRET PD

PARA ONE PD SUBJECT IS SPIES

PAREN TO APHQ G TWO RPTD TO APHQ G FIVE FROM HQ ALCON FROM
LEGAL PAREN

PARA TWO PD REFERENCE OUR AC SLANT FOUR ZERO EIGHT THREE
SLANT FIVE TWO SLANT L OF SEVEN DECEMBER PD MAY THIS
OFFICE BE FAVOURED WITH AN EARLY REPLY PD

*fourth rate
communique!*

LEGAL SUBCOMMISSION

302

LT. COL. CAMPBELL

I was away in Secy

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

SECRET

(63A)

✓
4040

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

5 December 1944

L/1007

SUBJECT : SPY CASES

TO : Chief Judicial Officer
(Lt.Col. Campbell)
Legal Sub Commission
HEADQUARTERS ALLIED COMMISSION

1. For the purpose of our records, it is my understanding that there are a maximum of nine cases in the course of preparation for trial within this Region.

[Signature]
Robert C. Hendrickson
Major, A.U.S. 12
Regional Legal Officer,

RCH/PA

Toley Good Show!!

*Army his office told them
about figure: he had previously said
there were over 20.
12
20 Dec*

C50

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

INCOMING MESSAGE

HEADQUARTERS ALLIED COMMISSION

Originator's Reference: F-63454
 Date/Time of Origin: DEC 05/1702A

Message Centre No: 62A
 Date/Time Rec'd: DEC 06/0930
 Precedence: ROUTINE

FROM: AFHQ SIGNED SACMED CITE: FHGEG
 TO: ALCOM FOR LEGAL

SECRET.

1. Execution of spies. Your 7558 refers.
2. Persons named were executed by PBS at 1600 hours 29 November near ROME pursuant to letter order AG 255/650-0 this Headquarters dated 20 November.
3. Draft directive not yet agreed. Every effort being made to expedite.
4. Suggest interim procedure in accordance with that adopted in cases of PIRAS ANTONIO and BERSELLI GIUSEPPE.

ACTION

A.P. DAT 11
 Act: Legal S/c ②
 upr Chief Commissioner
 D.A. Sec.
 File

SECRET

HEADQUARTERS
 1-DEC-1944
 A

AFHQ G- 5

7558

4 DECEMBER

ROUTINE

SECRET PD

PARA ONE PD SUBJECT IS EXECUTION OF SPIES

PAREN TO AFHQ G FIVE FROM HQ ALCOM FROM LEGAL PAREN

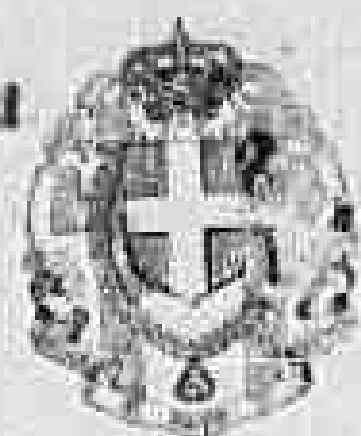
PARA TWO PD REQUEST INFORMATION ARRANGEMENTS MADE EXECUTION
OF FOLLOWING SEMI COLON MASIN LINO CMA PIZZI LORENZO CMA
FIANDRO CARMELO CMA MACRELLI GIANNINO AND ABATE NICOLA PD
CONFERENCE LIEUTENANT BULLOWA DASH COLONEL CAMPBELL AND
ALLIED COMMISSION LETTER FOUR ZERO FOUR ZERO SLANT L OF
FIFTEEN NOVEMBER REFER PD

PARA THREE PD ALSO REQUEST EARLY CONFIRMATION PROCEDURE TO
BE ADOPTED ON FUTURE CONFIRMATIONS OF DEATH SENTENCES PD
SAME CONFERENCE AND ALLIED COMMISSION LETTER SAME REFERENCE
DATED TWENTY SIX OCTOBER REFER

LEGAL SUBCOMMISSION

302

LT/COL. CAMPBELL



4040
MINISTERO DI GRAZIA E GIUSTIZIA

*Direzione Generale degli Affari Penali
delle Grazie della Statistica e del Casellario*

Roma.

Ufficio

Prot. N° A C/4040/L

Risposta al f. N° 20.II.1944

Alla COMMISSIONE ALLEATA

del

OGGETTO: Trattazione di processi
di spionaggio.

ROMA

59A

Poichè il reato di spionaggio cui si riferisce la richiesta suindicata è stato in parte commesso nel territorio restituito alla amministrazione italiana, nulla può opporsi a che sia trattata dal Tribunale militare alleato in Roma, in applicazione dell'art. unico, cap. I° R.L.L. 15 aprile 1944, N. II2.

IL MINISTRO

9

EG	SUB-COMMISSION
LO	
SOLO	
Chief Counsel	
→ CJO	IC
Italian Section	
CL RKS	
22 NOV 1944	

1 DCRA informed
2 LAZIO Region informed by
telephone (message to Major
Hedrickson via Capt GAZIANI)

10
22 Nov

HEADQUARTERS ALLIED COMMISSION
APC 394
LEGAL SUB-COMMISSION

/rlp.

20 November 1944.

AC/4040/L.

SUBJECT : Espionage Trial.

TO : H.E., the Minister of Pardon and Justice.

1. There are at present in prison in Rome, three persons accused of having crossed the lines to commit acts of espionage against the Allied Forces. As these acts, wholly or in part, took place within Military Government Territory, it is quite clear that they are subject to the jurisdiction of the Allied Military Courts.

2. Proceedings against these persons had not been commenced prior to the 15th August, and it is thought, therefore, that the Allied Commission has not the right to convene a court in Rome to try these cases.

3. It is, of course, possible for the trials to be held in some town within Military Government Territory. However, the members of the court, the prosecuting and defending officers, the court interpreter, the military witnesses, and the accused are all in Rome, and to transport all this personnel to another town and to find temporary accommodation there for them would be a matter of considerable practical difficulty.

4. In these circumstances, I am writing to ask Your Excellency to waive any technical objection that there may be to the holding of these trials in the Palace of Justice in Rome.

5. An answer at your earliest convenience will be very much appreciated. The cases will be ready for trial within a very few days.

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

DRAFT

File
15 November 1944. /m. 58A
Copy handed to H. Bullowa.

SUBJECT :

TO :

16 Nov.

1. When any person is sentenced to death by an Allied Military Court, the Allied Commission will inform this HQ. of the name of the accused, date of sentence and the place where the accused is confined.

2. This HQ. will then designate the formation or unit which will carry out the execution and will ~~not~~ notify the formation or unit and the Allied Commission of such fact without delay.

3. Upon confirmation of the sentence the Allied Commission will act

as follows: -

(a) If no instructions to the contrary have been received by it from this HQ. it will forward the original confirmation of death sentence and certified true copy of the delegation of authority to confirm sentences of death to this HQ. which will then forward the same documents to the designated formation or unit, or

(b) If instructions to that effect have been received by it from this HQ. it will forward the same documents direct to the designated unit or formation.

4. The designated unit or formation will be responsible for carrying out the execution with the least possible delay.

3. Upon confirmation of the sentence the Allied Commission will act

as follows: -

- (a) If no instructions to the contrary have been received by it from the HQ, it will forward the original confirmation of death sentence and certified true copy of the delegation of authority to confirm sentences of death to this HQ, which will then forward the same documents to the designated formation or unit; or
- (b) If instructions to that effect have been received by it from this HQ, it will forward the same documents direct to the designated unit or formation.

4. The designated unit or formation will be responsible for carrying out the execution with the least possible delay.

5. Upon completion of the execution, the designated formation will return the same documents as follows: -

- (a) If they were received by it from AF HQ, then to AF HQ, for return to HQ AC
- (b) If they were received by it ^{from} HQ AC, then to HQ AC (Legal Submission)

Alternative para 5 (preferred by HQ AC): -

5. Upon completion of the execution ^(Legal Submission) the designated unit or formation will return the same documents direct to HQ AC, with copy of the covering letter to AF HQ.

HEADQUARTERS ALLIED COMMISSION
APO 594
CIVIL AFFAIRS SECTION

W/1000/1.

SUBJECT: Carrying out of executions.

15 Nov 44.

TO: A.P.H.Q., C-5.

1. The question of the carrying out of the execution of persons sentenced to death by Allied Military Courts has been discussed with Lieut. Bullowa from your section.

2. The position is now as follows :-

(a) Future cases.

(1) The confirmation will be made out in the form as required by you and will be accompanied by a copy of the delegation of authority to confirm sentences. This will be authenticated by the Adjutant here.

(1a) A draft of your proposed directive has been considered. This provides that (unless other instructions are received here in any particular case) the confirmation and copy delegation are to be sent to AMHQ. Cannot this be avoided? Trials of spies usually take place now either in HQ or to the North of HQ. To send these documents to AMHQ for return northwards must inevitably take time. Is it not possible for AMHQ to authorize the transmission of these documents direct from HQ AG to the designated formation or unit?

Similarly, may these documents be returned, after completion of the execution, direct from the designated formation or unit to HQ AG, with a copy of the covering letter to AMHQ.

(b) Sentences already confirmed by Corrodone Stone.

The following cases fall under this heading :-

STANISLO Carmelo
LANTIERI Gino
MACCHIELI Giannino
BIRGI Ray Blas
ABATE Nicola

In respect of each of these cases, there is enclosed herewith a new Confirmation (in the new form) and a copy of the

(4) the confirmation will be made out in the form as received by you and will be accompanied by a copy of the delegation of authority to confirm sentences. It will be authenticated by the Adjutant here.

(11) A draft of your proposed directive has been considered. This provides that (unless other instructions are received here in any particular case) the confirmation and copy delegation are to be sent to AMHQ. Cannot this be avoided? Trials of spies usually take place now either in RAS or to the North of RAS. To send these documents to AMHQ for return northwards must inevitably take time. Is it not possible for AMHQ to authorize the transmission of these documents direct from HQ AS to the designated formation or unit?

Similarly, may these documents be returned, after completion of the execution, direct from the designated formation or unit to HQ AS, with a copy of the covering letter to AMHQ.

(b) Sentences already confirmed by Compendo Stone.

The following cases fall under this heading :-

PIANNO Carmelo
LAMBARTI Cino
MAGNOLI Giovanni
BLASI Ruy Blas
ABATE Nicola

In respect of each of these cases, there is enclosed herewith a new Confirmation (in the new form) and a copy of the delegation, certified by the Adjutant.

It is hoped that with these documents there will be no further delay in carrying out these executions. You will, no doubt, bear in mind that RAS would be the most convenient formation to carry out certain of these executions.

(c) Sentences already confirmed by Brigadier Lush.

It is not possible to procure new Confirmations: Brigadier Lush is not at present at this HQ, and his power to confirm has been revoked.

There are two cases under this heading in which the execution has not been carried out :-

FIZZI Lorenzo
MASIN Lino

2.

Enclosed herewith are the original confirmations signed by him, each accompanied by a copy of the delegation duly certified by the Adjutant.

In fact, there is no fundamental difference between the confirmation as signed by him and the new form of confirmation and, in view of the long delay which has already occurred, it is urged strongly that those confirmations be accepted and that the missions be carried out as soon as possible.

For the Chief Commissioner.

(Signed) *G. R. Upjohn*

G. R. UPJOHN, Brigadier
V. CA Sec
Dep CMB

Copy to : AFHQ, C-2.

4040/✓
MEMO:

14 Nov 44. (56A)

Spoke Lt. BULLOWA, G-5, AFHQ.

In future communications in regarding executions in spy, sabotage and other security cases will be addressed to AFHQ, G-2, copy to G-5.

In regard to other executions, communications will be addressed to AFHQ, G-5.

Copy handed to Lt Bullowa.

14 Nov. 4

File

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

59A

REF: AC/4040/L.

/rlp.
9 November 1944.

SUBJECT : Carrying out of death sentences.

TO : AFHQ, G-5.

see 54A

1. It is understood that you have not received a copy of our letter on the above subject dated 26 October 1944.

2. All previous discussions on this subject took place with Colonel S.S. Hill-Dillon and the letter was accordingly addressed to G-2. A copy is enclosed.

3. The procedure outlined in para. 4 of the letter has been approved by Hq AAI and RAAC and it is hoped that you will find it satisfactory.

For the Acting Chief Commissioner.

G. F. UPTON, Brigadier, 3
VP, CA Sec.
Dep CCS.

Incl. Copy of letter 26 Oct 44.

Legal
 ALLIED FORCE HEADQUARTERS
 G-5 Section
 APO 512

(540)

7748

G-5: 383.4

6 November 1944

SUBJECT: Executions of Convicted Persons.

TO : Headquarters, Allied Commission, APO 394

52A

1. Your letter on the above subject AC/4040/L dated 2 November 1944 is at hand. Unfortunately your previous letter, to which you make reference therein ACC/4040/L of 26 October 1944 has not been received.

49A

2. In order that the proposals made in the earlier letter may be studied, and so that action can be taken promptly to remedy the breakdown of existing procedures to which you make reference, it is requested that a copy be furnished us.

3. The urgency of the matter is appreciated particularly in view of Colonel Behrens note to Colonel Mitchell, bringing to our attention for the first time the situation of the two convicted enemy agents held by RAAC.

Charles M. Spofford

CHARLES M. SPOFFORD
 Brigadier General, G.S.C.
 Assistant Chief of Staff, G-5

LEGAL SUB-COMMISSIO

CLO

DCLO

Chief Counsel

CJO

Italian Section

CL RKS

10 NOV 1944

ADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

53A

5 Nov 44

AC/4040/L.

WEB/ap.

SUBJECT : Enemy agents, non-execution of.

TO : Colonel Mitchell, AF HQ.

1. On 26 Oct 44 I had a conversation with Freedom 307, understood to be the office of Colonel HILL-DILLON. In Colonel HILL-DILLON's absence I spoke to an American Colonel whose name I did not catch.

2. I informed this officer that there were 3 enemy agents whose execution was causing difficulty. Their names are : PIZZI Lorenzo, MASIN Lino and BERLENDIS Riccardo.

I informed the officer that PIZZI and MASIN were held by Rome Area Command but that orders had been issued for their execution by P.B.S. A deadlock had been reached in the matter and I asked him to issue instructions to all concerned for the executions to be carried out by the authority selected by him.

3. The officer stated that the cases were familiar to him and that he would issue that day the necessary orders.

4. BERLENDIS has now been executed.

5. I understand that no order has yet been issued and PIZZI and MASIN are still held by RAAC.

6. It would be appreciated if you could arrange for the necessary order to be issued as soon as possible.

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

0668