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TRIAL OF ALLIED AGENTS  
JULY 1945

FILE CLOSED 11 July 1945

HEADQUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

AG/4040/2/L.

/pa.  
11 Jul 45.

SUBJECT : Trial of Allied Agents.

TO : Regional Commissioner (Attn: R.E.G.),  
LOMBARDIA Region.

1. AMG Courts would seem to have no jurisdiction to try the Allied agents mentioned in your LRG/5002 of 6 July 1945.

2. An Italian subject, as such, owes no allegiance to the Allied Military Government and cannot therefore be tried for treason or any similar offence.

3. He cannot be tried for an offence under AMG Proclamations since the offence was committed in territory which was not at the time subject to AMG and when the Proclamations were not in force. It would be impossible to prove that an offence had been committed before reaching enemy territory even if it actually had been.

4. It is possible that, as in the case of German agents, these Italians took some oath of allegiance to the Allies and became members of the Allied forces. If so they may, possibly, be subject to trial by Court Martial but even in such case they are not liable to trial by AMG Courts.

5. I do not think that the cessation of hostilities has any bearing on the desirability of trying persons of this type but for the reasons given I think that AMG cannot assist. In the probable event that these persons are not amenable to Court Martial proceedings they should be handed to the Italians for trial by the Extraordinary Courts of Assize.

By command of Rear Admiral STONE:

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



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HEADQUARTERS  
ALLIED MILITARY GOVERNMENT  
LOMBARDIA REGION  
APO 394  
Legal Division

Ref.: LEG/5002

6 July 1945

SUBJECT : Trial of Allied Agents.

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

1. This HQ. has been asked to advise on the possibility of trying by A.M.G. General Court certain Italians, who have been arrested by Allied Security agencies on the following grounds.

2. Prior to the termination of hostilities, these persons were dropped by parachute into enemy-occupied territory in Northern Italy in order to act as Allied agents and to obtain information for the Intelligence Services with which they had previously been working in the South.

3. Upon landing these agents either voluntarily handed themselves over to the Germans or having been captured and briefly interrogated, communicated to the Germans information valuable to the Allies and assisted them to capture other agents, whose whereabouts were known to them.

4. The Intelligence Services having now recaptured these agents, wish that they be punished for their treachery to the Allied cause - in at least one case with the death penalty.

5. Will you please advise

(a) whether cases of this type should be tried by A.M.G. Court, having regard to the ruling already given as to the trial of enemy agents after the cessation of hostilities.

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(b) if the answer to (a) is in the affirmative, whether the charge should be laid under Proc. No. 1 Art. IV Section 2 or Section 23.

(c) if the answer to (a) is in the negative, whether any alternative procedure can be recommended to the Intelligence agencies concerned.

For the Regional Commissioner :

*H.M. Dickie*

H.M. DICKIE  
W/CDR. RAF  
Regional Legal Officer

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