

09131

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

785016

ACC

10000/142/444



10000/142/444

CASES OF OFFENSES IN FAVOR OF ALLIES  
JUN. 1944 - DEC. 1945



To Land Forces.

6

Ref your 10a please see hints 475.  
Will you please take action in accordance  
with the recommendation in hint 5,  
q. h. y.

Specimen

Action taken - see 15A.

No action



Legal

4.

1. I have discussed this matter with Gen Browning. We are agreed that it would be both difficult & undesirable to have attempts to lay down any general policy in this matter.
2. Each case must be judged on its merits.
3. In the circumstances of the present case

We are agreed in the course proposed by you in para 3 of letter 3, namely that you should write to the P.G. & ask him not to pursue the prosecution of Muro.

V. R. Pipkin  
by

69 Apr.

3.

SPH. action  
VP. CAS.

5.

1. A reply (14A) has been received from P.G. to letter written pursuant to Minute 4 (3), stating that no judicial proceedings have been initiated against Muro, that therefore he cannot interfere,



in para 3 of letter 3, whereby that you should  
write to the P.G. in & ask him not to pursue  
the prosecution of Muro.

VRhphjsh  
by

29 Apr. 1945

28  
Sgt. G. J. 3.

VP. CAS.

5.

1. A reply (14A) has been received from P.G. in letter written pursuant to Minute 4 (3), stating that no judicial proceedings have been instituted against Muro, that therefore he cannot interfere, and that if in the future a prosecution is started he will pay regard to our comments, and also the anxiety of 1944.
2. The situation apparently is that a disciplinary enquiry is in course, submitted to Col. Sebastiani Alfieri, under the order of Comandante Tedesco Terentio di Palermo.
3. In these circumstances, if any intervention is considered desirable it should come from MMIA, and not from Legation etc.
4. If you agree, we shall go on with forward the file to MMIA.  
Walter  
Dieter

7 May 1945



V.P., C.A. Sec

1. At folios 10A, B, C & D are the papers in the case of Lt. Musso. As you will remember I have spoken to you about him. He is charged by his superior officer for having betrayed his country to the Allies before the invasion of Sicily (10 July 1943).

2. I Have already spoken to the PCM who knows nothing of the case as yet.

3. However in order to avoid the repetition of such occurrences perhaps you will wish to take up the matter at higher level.

Legal S/C.  
14.4.45.

*G. G. Hannaford*

G. G. HANNAFORD,  
Lt. Col.  
Officer i/c Italian Branch.

Legal

It is your duty to make a recommendation  
+ to draft an appropriate letter to  
the appropriate authority if you think it

15 Apr. desirable.

*G. G. Hannaford*

C. A. Sec.

1. Reference Minutes 1 and 2, MUSSO became PW on 11 June 43 and on 7 July 43 accepted a service which was obviously treasonable from the point of view of the Italian Government even if desirable from ours and made in response to our requests.

2. From a political point of view it is clearly desirable that



15 Apr. Dublin.

*Handwritten signature*

3.

C. A. Sec.

1. Reference Minutes 1 and 2, MUSSO became PW on 11 June 43 and on 7 July 43 accepted a service which was obviously treasonable from the point of view of the Italian Government even if desirable from ours and made in response to our requests.
2. From a political point of view it is clearly desirable that such persons should not be prosecuted while we remain in Italy.
3. From a legal, and even a moral, point of view I think that we have a very weak case for interference except upon the doctrine that might is right.
4. Our case is weakened by the Badoglio - McFarlane agreement (See OA) which limited our interest in deserters to offences committed after 10 July 43. While it is true that that agreement deals only with deserters, this offence is analogous and I doubt whether Badoglio would have considered such a case as this at that time.
5. Legally, of course, our case is now still weaker in Italian Government Territory.
6. While I think it may perhaps be desirable to express to the Italian Government, by letter to the Procuratore Militare, our view that this prosecution should not be further pursued, I think the general policy should be decided by the Chief Commissioner in the light of the views of the interested Sub-Commissions - notably MIA. I think that if we are to interest ourselves in this case we should decide carefully how far we are to go and to what cases we are prepared to extend our interference. We cannot adopt a blanket attitude that any Italian soldier who betrayed his country and oath of allegiance shall be regarded like Caesar's wife.
7. In view of the above I have taken no action for the moment. You will no doubt appreciate that in any event the normal Italian prosecution has a long period of gestation and that there is little we can do to prevent a seed sown in 1943 coming to birth after the peace treaty.

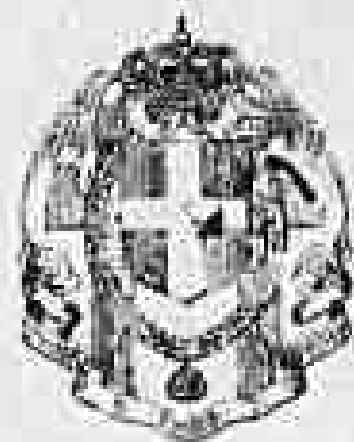
Legal Sub-Commission  
16 Apr 1945.

*Handwritten signature*

W. S. DILLON, Colonel,  
The Royal Air Force Division.

0919





# MINISTERO DI GRAZIA E GIUSTIZIA

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

Ufficio I° A.P. Roma. 21 Dicembre 1945  
Prot. N° 131-882/2932/1945  
Risposta al f. N° AC/4053/2/L. Alla COMMISSIONE ALIETA  
del 20 Novembre 1945 SOTTOCOMMISSIONE LEGALE  
OGGETTO: Procedimento penale contro GIOVAGNOLI Filippo per ascolta-  
zione di radiotrasmissioni estere.- ROMA

e per conoscenza:  
ALL'UFFICIO COLLEGAMENTO

38

S E D E

In relazione al foglio sopra distinto, si informa che questo Ministero, nel richiedere, a suo tempo, alla Procura Generale presso la Corte di Appello di Roma le informazioni del caso inmerito al procedimento di cui all'Oggetto, trasmise a quell'ufficio gli allegati qui pervenuti con la nota in data 2 Luglio u.s. di codesta On.le Sottocommissione.-

Il 27/9/ c.a. il Procuratore Generale comunicò di aver richiesto le notizie desiderate alla Procura del Regno di Viterbo ove è in corso la procedura di esecuzione relativa al processo contro il GIOVAGNOLI.-

Recentemente questo Ministero, non avendo avuto altre comunicazioni al riguardo, ha sollecitato il Procuratore Generale per l'evasione della richiesta, invitandolo a restituire i noti allegati che saranno, non appena pervenuti, inviati a codesta Sotto-

././.



comissione.-

5 October 1945 MINISTRO

*[Signature]*

SECRET

| LEG.         | UB COM | SO |
|--------------|--------|----|
| CLO          |        | 1  |
| DCLO         |        |    |
| Chaf Counsel |        |    |
| CJ           |        |    |
| Legation     | action |    |
| CL RXS       |        |    |
| 27 Dec 45    |        |    |





HEADQUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

21A

AC/4053/2/L.

/es  
20 November 1945

SUBJECT : GIOVAGNOLI Filippo. Listening to foreign radio  
broadcast.

TO : The Minister of Pardon and Justice.

May the enclosures concerning the above sent with  
this Sub-Commission's letter of even number dated 2 July 1945  
be returned, please, as soon as possible.

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



PERSONALHEADQUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

GGH/lc.

5 August 1945.

AC/4053/2/L.

SUBJECT : Case of MOLISANI Alberto, Sindaco of Casalbordino.

TO : The Minister of Pardon and Justice.

1. The enclosed memorandum speaks for itself.
2. This Commission is most suprised to see <sup>that</sup> persons who have sacrificed themselves in the fight against the common enemy are treated as if they were ordinary criminals.
3. Furthermore the attitude of the Pretore of Casalbordino is causing a good deal of astonishment. This Sub-Commission is of opinion that a magistrate who takes such a narrow view of his duties and whose sense of justice appears to be submerged by technicalities is not an altogether ideal selection for the post he now fills.
4. No doubt the Minister will wish to take appropriate action in this matter and inform this Sub-Commission of his decisions.

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

Incl.



19A

4653/2/16

SUBJECT:- MOLISANI Alberto721/GSI1 Aug 45

Legal Division,  
HQ Allied Commission,  
ROME.

1. Attached for your information and for any action which you may find it possible to take, are copies of a letter which I have recently addressed to the Procuratore del RE at VASTO (CHIENTI).

2. The facts are briefly as follows: in November 1943 88 FS Sec together with the AME "Spearhead" C.A.O. arrived in CASALBORDINO where they immediately appointed Avv MOLISANI (who has a long anti-Fascist record) as Sindaco. From him they received admirable help in every way and he was thoroughly approved of by the population. His co-operation was fully extended to me when, as OC 68 FS Sec I arrived in CASALBORDINO in early December.

3. MOLISANI was instrumental in assisting FS with the arrest of certain more notorious Fascists and full reports on these matters were passed to me by 88 FS Sec when I took over.

4. Some of these Fascist arrestees have now returned from internment and the family of a certain IOVACCHINI (the Segretario Politico and about the worst of this bunch of corrupt local tyrants) have laid an information with the Italian judicial authorities charging MOLISANI with having incited the population to break open and sack IOVACCHINI's house. Incredible as it may seem, a warrant for the arrest of MOLISANI has been issued on the basis of this information and the poor man, who now dare not go home, recently came here to ask for my help.

5. I know for a fact that FS searched IOVACCHINI's house immediately on arrival in CASALBORDINO, much to the satisfaction of the population and it is highly probable that the people stole some or all of his property. I believe that C.A.O. was also present at the time of the search.

6. I recently passed through CASALBORDINO while I was on leave in ABRUZZO and on hearing this story made a declaration in Italian as to such of the facts as I was aware of. This I gave to the Pretore of CASALBORDINO who assured me it was in order.



Sec I arrived in CASALBORDINO in early December.

3. MOLISANI was instrumental in assisting PS with the arrest of certain more notorious Fascists and full reports on these matters were passed to me by 88 PS Sec when I took over.

4. Some of these Fascist arrestees have now returned from internment and the family of a certain IOVACCHINI (the Segretario Politico and about the worst of this bunch of corrupt local tyrants) have laid an information with the Italian judicial authorities charging MOLISANI with having incited the population to break open and sack IOVACCHINI's house. Incredible as it may seem, a warrant for the arrest of MOLISANI has been issued on the basis of this information and the poor man, who now dare not go home, recently came here to ask for my help.

5. I know for a fact that PS searched IOVACCHINI's house immediately on arrival in CASALBORDINO, much to the satisfaction of the population and it is highly probable that the people stole some or all of his property. I believe that C.A.O. was also present at the time of the search.

6. I recently passed through CASALBORDINO while I was on leave in ABRUZZO and on hearing this story made a declaration in Italian as to such of the facts as I was aware of. This I gave to the Pretore of CASALBORDINO who assured me it was in order.

7. I now hear that the Procuratore at VASTO refuses to admit <sup>the</sup> declaration as evidence because it was not made by me personally before him in a different form.

8. While I realise that AC may be powerless to intervene in a case of this kind in territory where Italian writ now runs once more, I would be most grateful if it is possible for the matter to be taken up. It seems to me monstrous that a man who has suffered considerably for his anti-Fascism should, as a result of false information laid by Fascists newly returned from internment, now be penalised for having given really admirable assistance to the Allies. Moreover, the Procuratore sees fit to reject my declaration which should completely clear the accused, since it is not made in a certain prescribed form.

9. I have sent a copy of this letter to the Corte d'assise at AQUILA who are dealing with the case and I enclose a second copy which I submit might well be sent to the Italian Minister of Justice.

C.M.F.  
R.E./M.B.

*Major,*  
GSO 2 (I),  
No 1 District.



198  
 ASI,  
 HQ No. 1, District,  
 O.K.F.

27 July 1945

Al Procuratore del Re,  
 Vareso, Prov. Chieti.

e per conoscenza: Sotto Commissione Legale, Commissione Allotta, ROMA.  
 S.E. il Ministro di Giustizia e Giustizia, ROMA.  
 Il Presidente della Corte d'Assise, ANCONA.

Oggetto : AVV. MOLISANI Alberto, CASALBORINO. (CHIETI)

1. Essendo stato recentemente in licenza in Abruzzo ho saputo il fatto del mandato di cattura emesso contro l'AVV. MOLISANI sotto la denuncia della famiglia di un IOVACCHINI, segretario Politico del Fascio di CASALBORINO durante l'occupazione tedesca, fascista, nazista e noto collaboratore dei tedeschi.
2. L'accusa contro l'AVV. MOLISANI è quella di avere invitato il popolo di CASALBORINO a sconfiggere la porta della casa IOVACCHINI e a svaligiare detta casa. Di fatti la porta è stata sconfigguta e una perquisizione è stata eseguita subito dopo l'arrivo degli Inglesi su ordini del governatore e della RSS, e ciò fu fatto in presenza di tali autorità. Probabilmente, in conseguenza dell'odio naturale della popolazione che voleva vendicarsi contro il IOVACCHINI (il quale era responsabile di avere rastrellato per lavori forzati coi tedeschi moltissimi uomini di CASALBORINO, parecchi dei quali sono morti) la casa è stata svaligiata da diversi civili ha di questo non so niente.
3. Però, mi sembra una cosa straordinaria che la giustizia italiana avesse creduto opportuno mettere un mandato di cattura sotto una tale denuncia fatta da questi noti fascisti e basata su avvenimenti che sono successi in circostanze di guerra contro l'AVV. MOLISANI il quale, appena arrivati gli alleati a CASALBORINO, è stato nominato Sindaco ed ha reso notevoli servizi per un lungo periodo di tempo all'AMF ed alla RSS.
4. Essendo venuto a conoscenza di questo mandato sono andato il 12 giugno, mercoledì di OL. RR. di CASALBORINO, dove ho fatto una dichiarazione a favore dell'avvocato. Avevo una certa conoscenza personale dell'affare essendo stato di servizio a CASALBORINO colla RSS poco tempo dopo l'avvenimento quando l'AVV. MOLISANI ha dato a me, come al mio predecessore, una collaborazione perfetta. Noto nel paese come anti-fascista faceva con me



2. L'accusa contro l'avv. MOLINARI è quella di avere incitato il popolo di CASALBORINO a consegnare la porta della casa IONACCHINI e a svegliare detta casa. Ma fatti la porta è stata consegnata e una perquisizione è stata eseguita subito dopo l'arrivo degli Inglesi su ordini del governatore e della PSS, e ciò fu fatto in presenza di tali autorità. Probabilmente, in conseguenza dell'odio naturale della popolazione che voleva vendicarsi contro il IONACCHINI (il quale era responsabile di avere rastrellato per lavori forzati coi tedeschi moltissimi uomini di CASALBORINO, parecchi dei quali sono morti) la casa è stata svaligiata da diversi civili che di questo non so niente.

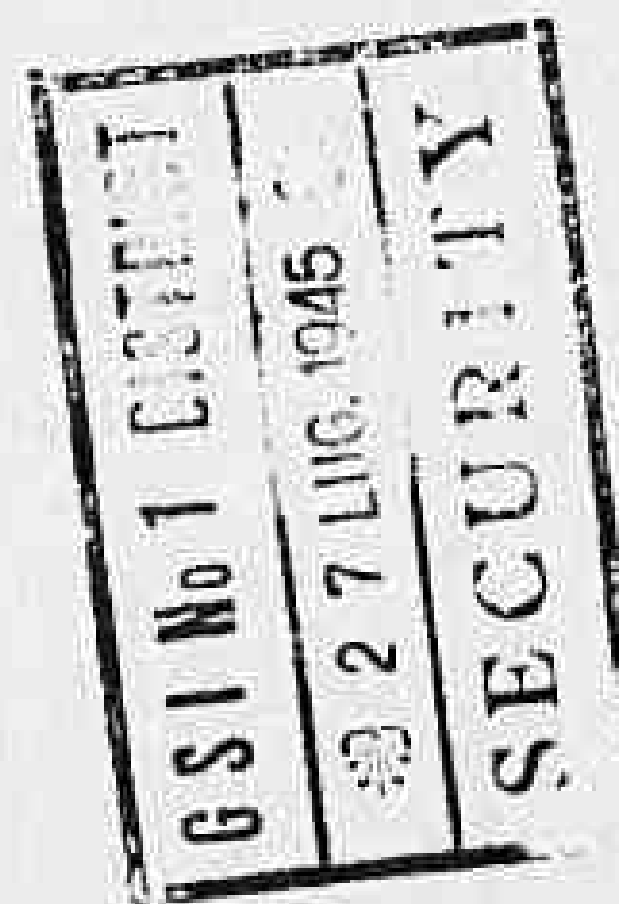
3. Però, mi sembra una cosa straordinaria che la giustizia italiana avesse creduto opportuno emettere un mandato di cattura sotto una tale denuncia fatta da questi noti fascisti e basata su avvenimenti che sono successi in circostanze di guerra contro l'avv. MOLINARI il quale, appena arrivati gli alleati a CASALBORINO, è stato nominato sindaco ed ha reso notevoli servizi per un lungo periodo di tempo all'AMF ed alla PSS.

4. Essendo venuta a conoscenza di questo mandato sono andato il 12 giugno, maresciallo di CO. RA di CASALBORINO, dove ho fatto una dichiarazione a favore dell'avvocato. Avevo una certa conoscenza personale dell'affare essendo stato di servizio a CASALBORINO colla PSS poco tempo dopo l'avvenimento quando l'avv. MOLINARI ha dato a me, come al mio predecessore, una collaborazione perfetta. Note nel paese come anti-fascista faceva con me tutto il possibile per eliminare gli elementi fascisti. In conseguenza sta adesso sotto mandato di cattura denunciato proprio da questi fascisti che sono adesso formati dalla loro fuga o dall'internamento.

5. Ho consegnato questa mia dichiarazione al Pretore di CASALBORINO. Il Pretore mi ha assicurato che era perfettamente in ordine e che sarebbe subito trasmessa a Lei.

6. Ieri invece ho saputo che Lei ha rifiutato di accettare questa dichiarazione perché non è stata fatta da me personalmente davanti ad un Giudice.

2/.....

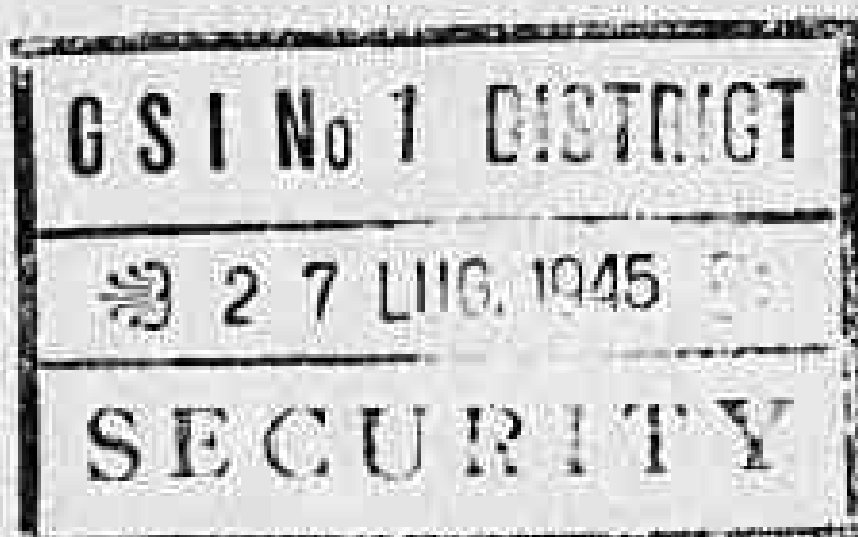




- 2 -

7. Visto le circostanze anormali del caso e la necessità di fare la giustizia (e farla presto) questo mi sembra veramente insopportabile. Io sono di servizio adesso a PADOVA e non è affatto possibile per me venire a VARESE per rifare questa mia dichiarazione davanti a Lei. Ho chiesto al Procuratore di PADOVA se potessi rifare o confermare la dichiarazione qui. Mi risponde che senza una delega questo non è possibile. E così il disgraziato (e innocente) AVV. MOLISANI sta sempre sotto mandato di cattura.

8. La prego quindi di riconsiderare immediatamente la posizione, di accettare (come è certamente possibile) la mia dichiarazione e dar prova che esiste giustizia in Italia e che i fascisti non comandano più.



*Am. Gold* 28  
Il maggiore R.M. Gold  
(già del Servizio PSS).



HEADQUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

18A

AD/4053/2/L.

/mt.  
21 July 1945.

SUBJECT : Request for quashing of sentence, Francesco PREZIOSO.  
TO : The Minister of Pardon and Justice.

The enclosed petition addressed to the Chief Commissioner of this Commission is passed to you for consideration.

Incl.

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



TRANSLATIONLegal Aff.  
(8B)

Savona 10 July 1945

TO : Rear Admiral Ellery W. Stone

The undersigned Rag. Francesco Prezioso, Director of the Credito Italiano in Savona, whose services and salary are still in suspense for the motives he will explain hereafter, takes the liberty to point out the following facts:

In June 1943, while the subscription to the Buoni del Tesoro loan, floated by the fascist Government was open, he advised some friends of his, who wished to invest large sums of money, to buy gold pounds and dollars, thinking that this was the best investment.

This was found out by the "Ovra" and the writer was put under arrest for two months, in compliance with the decree issued in 1941 prohibiting the commerce of foreign currencies.

The writer was then suspended from his service and salary by the Central Direction of the Credito Italiano in Milan, and is still waiting for the judicial action to be settled.

It now seems strange that, one whole year after the liberation of Rome, the Italian Government has not yet abrogated the laws relating to a disgraceful period of our history.

For pure information, the writer points out that trials against people accused of having listened to London broadcasting are still pending at the Court of Savona.

The undersigned begs you to intervene with the Ministry of Justice so that the fascist laws may be abrogated and he may resume his situation at the Bank, thus putting an end to his financial and moral difficulties.

Francesco Prezioso  
Via Famagosta N° 19  
Savona



Giovagnoli Filippo.  
Via Rocca Bianca. 8  
Roma. 26

Papers in Radio Futurismo

Wants papers back

Capt Hayes.

275  
Security Ind



HEADQUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

AC/4053/2/L.

/mt.  
2 July 1945.

SUBJECT : GIOVACOLI Filippo, listening to foreign radio broadcast.  
TO : The Minister of Pardon and Justice.

1. Your attention is invited to the attached "Estratto di condanna" with two enclosures from which it would appear that the above was sentenced on 30 December 1941 by the Tribunale of Viterbo to a fine for listening to foreign radio broadcast.

2. Sgt. GIOVACOLI now called on this Commission and stated the judicial authorities had served on him a final notice for payment of the fine notwithstanding the enactment of D.L. 152 of 3 April 1945 abrogating the limitations on listening to enemy and neutral broadcasts.

You will no doubt wish to consider the case at your convenience.

F. E. DEERIES,  
Colonel,  
Chief Legal Officer.

*to Cap. G. would  
to Binelli asking to prevent it  
need, tap as requested  
3 Incls. public Hay at on 7 July A  
belonging to Capt Hay at on 7 July A  
9 July 45*



## CONFIDENTIAL

HEADQUARTERS ALLIED COMMISSION  
A.F.O. 394  
PUBLIC SAFETY SUB COMMISSION  
SECURITY DIVISION

REF : SD/250

30 June 1945

SUBJECT : GIOVAGNUOLI Filippo  
Via Roccapriore 8, Roma

TO : Legal Sub Commission

1. The above named came to this office with regard to a fine and costs amounting to L. 4375 inflicted on him for "Listening to foreign radio" at Viterbo during the fascist regime.

2. He appealed but the sentence was confirmed.

3. Your opinion was sought, and the reply given that a recent decree abolished the law in question together with whatever sentence was attached to it.

4. Your opinion was passed to Subject who informed the Judicial Authorities whose reply has been to serve a final notice for payment on him.

5. Apart from the legal side, it is pointed out that the demand for payment of a fine inflicted under this particular law might conceivably lead to unpleasant repercussions if the matter became public.

6. The relevant documents are attached and it would be appreciated if the matter could be taken up with the authorities concerned.

CLO

DCLO

Chief Counsel

CBH/nd

Italian Section

CL RKS

CONFIDENTIAL

CML 500-018 1945

*John W. Chapman*  
JOHN W. CHAPMAN,  
Colonel J.A.G.D.,  
Director Public Safety,  
Sub Commission.



Subject : Tribunale Militare PALERMO.

15A

405 3/2

Land Forces Sub Comm.A.C.  
M.M.I.A.  
R O M E.  
A 235.

14 May 45.

To : Ministry of War.

S/Ten MUSCO Greste.

1. It is understood that a Disciplinary Inquiry is being made by Tribunale Militare Territoriale di Palermo into the cooperation of the above named officer with the Allies prior to September 1943.
2. It is desired that officer conducting Inquiry be acquainted with the fact that S/Ten MUSCO Greste has, before and after September 1943 rendered very valuable assistance to the Allied Cause.
3. It is considered that the value of his service to the Allied cause should offset any other charges against S/Ten MUSCO, and it is hoped that this view will be taken by Board of Inquiry.
4. M.M.I.A. LO is being asked to hand a copy of this letter to Col. Sebastiano Alfieri, who has been appointed to conduct the Inquiry by Tribunale Militare Territoriale di Palermo.

*W.P. Kelly*  
Major General,  
M.M.I.A.

/wei

Copy To : M.M.I.A. LO. Sicily(2)  
(See para 4 for action please)  
C.A. Section.A.C.  
Legal Sub Comm.A.C.



0935

14A  
1945

Roma, addì 3 maggio

  
**PROCURA GENERALE MILITARE**  
DEL RE IMPERATORE REGNO  
PRESSO IL  
TRIBUNALE SUPREMO MILITARE

ALLA COMMISSIONE ALLEATA  
Sottocommissione Legale

= ROMA =

N. 457 prot. R.P. risp.

STAMPERIA REALE DI ROMA

ALLEGATI N.

OGGETTO: Procedimento disciplinare contro S.Ten. MUSSO Oreste.  
— Palermo.

11A

In risposta alla nota n. 4053/2/L. in data 20 aprile 1945  
si conferma che non esiste alcun procedimento penale in corso  
contro il S.Ten. MUSSO Oreste.

Dai documenti allegati alla nota sopra indicata risulta  
invece che a carico del predetto ufficiale sarebbe attualmente  
in corso un'inchiesta di carattere disciplinare, disposto dal Co  
mando Militare Territoriale di Palermo, allo scopo di accertare  
se la condotta tenuta dal predetto ufficiale sia censurabile.

Si fa presente che nè questo Generale Ufficio nè i dipen  
denti uffici giudiziari si sono occupati di questa inchiesta  
che si svolge unicamente nel campo disciplinare e amministrati  
vo ed è affidata a un ufficiale estraneo alla magistratura mili  
tare (Colonnello di fanteria Sebastiano Alfieri).

Questo Generale Ufficio pertanto, pur apprezzando le ragioni  
segnalate da codesta Sottocommissione, non può intervenire in un  
caso nel quale non vi è stata denuncia e non è stato neppure ri



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

In risposta alla nota n. 4053/2/L. in data 20 aprile 1945 si conferma che non esiste alcun procedimento penale in corso contro il S.Ten. MUSSO Oreste.

Dai documenti allegati alla nota sopra indicata risulta invece che a carico del predetto ufficiale sarebbe attualmente in corso un'inchiesta di carattere disciplinare, disposto dal Comando Militare Territoriale di Palermo, allo scopo di accertare se la condotta tenuta dal predetto ufficiale sia censurabile.

Si fa presente che nè questo Generale Ufficio nè i dipendenti uffici giudiziari si sono occupati di questa inchiesta che si svolge unicamente nel campo disciplinare e amministrativo ed è affidata a un ufficiale estraneo alla magistratura militare (Colonnello di fanteria Sebastiano Alfieri).

Questo Generale Ufficio pertanto, pur apprezzando le ragioni segnalate da codesta Sottocommissione, non può intervenire in un caso nel quale non vi è stata denuncia e non è stato neppure richiesto un semplice parere dell'autorità giudiziaria militare.

Se una denuncia verrà presentata contro il S.Ten. MUSSO (cosa che si ritiene poco probabile) questo Generale Ufficio terrà presente i giusti rilievi di codesta Sottocommissione e prenderà gli opportuni provvedimenti, tanto più che tratterebbe in ogni caso di fatto previsto dall'art. 1° del R. D. d'Amnistia

5 aprile 1944, n. 96.

IL SOST. PROCURATORE GENERALE MILITARE  
(M. Berutti)

M. Berutti



13A

HEADQUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

AC/4053/2/L.

23/mt.  
27 April 45

SUBJECT : Political cases pending before Tribunale of Ravenna.  
TO : Regional Commissioner (Attn: Regional Legal Officer),  
EMILIA Region.

1. Reference your RIX/LE/703/RA/434 of 6 Apr 1945 forwarding letter No. 37 of the Presidente del Tribunale of Ravenna.

2. The Ministry has advised this Sub-Commission that on 23 April 1945 they have ordered the suspension of the proceedings in cases set out in the last mentioned letter.

By command of Rear Admiral STONE:

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





*Ministero di Grazia e Giustizia*

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

Ufficio 1° A.P.  
Prot. N° 131.112/611/45

*12A* Mod 40  
COMMISSIONE ALIBATA  
SOTTOCOMMISSIONE LEGALE  
R O M A

Risposta al f. del 9.4.45

Dir. Leg. N° AC.4053/I

OGGETTO: Reati commessi per reati politici

*9A*

In relazione alla nota sopra distinta  
si comunica che, in pari data, si sono date  
disposizioni affinché i processi ivi segna-  
lati restino sospesi fino a nuova disposizio-  
ne.

D'ordine del Ministro

*[Signature]*

|                     |  |
|---------------------|--|
| LEGAL SUBCOMMISSION |  |
| CIO                 |  |
| DCIO                |  |
| Chief Counsel       |  |
| CIO                 |  |
| Legal Advisor       |  |
| Q. R. R.            |  |
| 27 APR 1945         |  |



HEADQUARTERS ALLIED COMMISSION  
APC 394  
LEGAL SUB-COMMISSION

11A

AC/4053/2/L.

GGH/ap.  
20 April 1945.

SUBJECT : Proceedings against S.Ten. MUSSO Oreste,  
Palermo.

TO : H. E. The Procuratore Generale Militare,  
Via Acquasparta No. 2, ROME.

1. The above case has been mentioned to Col. BERUTTI, and it is understood that no action has to date been initiated. Copies of the documents in the possession of this Sub-Commission are therefore forwarded to Your Excellency for consideration.

2. May it be pointed out that the charges against MUSSO are in fact in diametrical opposition to those preferred against General ROATTA and others, which resulted in their being sentenced to death by the High Court.

3. Needless to point out that the Allied Military authorities would look upon the trial of S.Ten. MUSSO for the alleged offence with great disfavour and it is hoped that Your Excellency will consider his case in the same light.

*Forwarded  
by hand to Col Berutti  
on 26 Apr*

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



40502  
10A  
Subject : Charges against Italian Officers.

Land Forces Sub Comm.A.C.  
( M.M.I.A. )  
R O M E  
A 260

12 April 45.

Legal Sub Comm.  
HQ Allied Commission.

S.Ten. MUSSO Oreste.

Ref : Conversation Lt.Col.HANNAFORD/  
Capt.ARCHER.

The attached letter received from HQ 204 Sub Area, together with 2 other documents, are forwarded for your information and action please. It is requested that you will make arrangements so as to have the charges against S.Ten.MUSSO annuled.

*SP/Archer Capt.*

S.P. ARCHER, Capt.  
for Major General,  
M.M.I.A.

Copy to : HQ 204 Sub Area, C.M.F.  
your 204.II8/58/A of 26th of March, refers.  
M.M.I.A. LO Sicily.

SPA/fc

| LEGAL SUB COMMISSION |  |
|----------------------|--|
| CLO                  |  |
| DCLO                 |  |
| Chief Clerk          |  |
| CM                   |  |
| Relief               |  |
| Q. No.               |  |
| 13 APR 1945          |  |



U R G E N TSUBJECT:- Discipline - Italian Troops and Co-operators.Land Forces Sub Commission  
(MMIA) P A L E R M O  
-----CONFIDENTIAL204/118/58/A26 Mar 45MUSSO Crete.

Reference attached letter from 21 PSS and document attached thereto regarding proceedings against the a/n which are being initiated by the Italian Military authorities.

Will you please take the matter up urgently in view of the assistance offered by this Italian officer to the Allied Forces and in case other proceedings of a similar nature are contemplated.

Please keep this HQ informed as to how the matter progress.

In the Field  
WGM/MLF*W. J. Morgan* *Cap*  
Major,  
DAA & QMG  
HQ 204 Sub Area.

Copy to:- 21 PSS (your 21PS/Sec dated 21 Mar 45 refers.  
This cancels this HQ letter of even  
No dated 24 Mar 45, copy to you)

DOWN GRADED  
TO  
UNCLASSIFIEDCol. Inf.  
Chief Judicial Officer.  
for Chief Civil Affairs Officer.*Recd 28 Mar 1130A*



105

TRANSLATION.

46° REGGIMENTO FANTERIA S.I. "SABAUDA".  
Ufficio Colonel. Comandante.

N° 6 di prot. R.F.

P.M. 30 li 9 Marzo 1945.

Subject:- Formal disciplinary inquiry.

TO: S. TENENTE COME. PER. MUSSO ORRESTE  
VIA S. GIOVANNI BOSCO - ISOL. 250 N° 18.

LESSINA.

I have to inform you that by order of the Comando Militare Territoriale of PALERMO I must carry out against you a formal disciplinary inquiry on the following charge:

"- whilst an officer held prisoner of war by the enemy in the prisoner of war camp at Algiers, on the 7 July 43, i.e., even before the operations in Sicily, in contravention of the laws of military honour, you irresponsibly agreed to collaborate with the said enemy in a sabotage unit."

I invite you to present yourself at this headquarters on Monday the 12th inst., at 11 a.m., to inspect the documents regarding the inquiry.

IL COLONNELLO COMANDANTE.  
(Sebastiano Alfieri.)  
????????????????????

TRANSLATION.

Allegato al foglio No. 77-R.F.  
del 9/3/45.

QUESTES REGARDING WHICH SOTTOTENENTE MUSSO ORRESTE IS TO GIVE EXPLANATIONS.

You declared that having been taken prisoner on 11 June 1943 at PANTILLERIA, where you were Aiutante Maggiore at the HQ of the Western sector, you were first taken to SUSAL and then to the PW Camp at ALGIERS.



in a sabotage unit.

I invite you to present yourself at this headquarters on Monday the 12th inst., at 11 a.m., to inspect the documents regarding the inquiry.

**THE**

[illegible]

Allegato al foglio No. 77-R.F.  
del 9/3/45.

QUERIES REGARDING UNION SOTTOTENDENTE RUSSO ORESTE IS TO GIVE EXPLANATIONS.

You declared that having been taken prisoner on 11 June 1943 at PAINTELLERIA, where you were Assistant Maggiore at the HQ of the Western sector, you were first taken to SUSAL and then to the PW Camp at ALGIERS.

According to your statements, you agreed to on the invitation of the Commandant of the Camp, you agreed to collaborate with the Allies by joining a unit of parachutist-saboteurs. On 7 July 1943, IDIN was still at war with the United Nations.

which had not yet even begun the landing operations at Iwo Jima, which led you to accept such a mission, what were the reasons that led you to accept such a soldier's duties against your duties as a soldier? At that time, was completely against your duties as a soldier, which, at that time, was completely against your duties as a soldier, which, at that time, was completely against your duties as a soldier.

To what propaganda technique do you state you had of

What are the undeniable proofs which you have that the Italian Army official collaboration between the General Staff of the Italian Army and the Allies?

Did you not think that in the case of collaboration between the General Staff and the Allies, the orders to collaborate would have been issued by the ITALIAN Central Authorities?

And finally, did you not consider the manner in which you agreed to participate could not be dictated by an intuition of the future development of the situation; and that, by acting in this manner, you were making yourself a judge of the fate of the Nation, and arrogating to yourself the right which was in conflict with your duties as an officer?



Subject:-

11-30, Crete.

No. 2173/Sec.

To:-

"A" Branch, 204 Sub Area.

CONFIDENTIAL

From:-

No. 21 Fort Security Section.

107

MUSSO, Crete di Salvatore e di BELLA, Giovanna.

Ref attached copies of documents.

1. The subject was born 2 Jun 1916 at MESSINA, and is at present resident there at Via Don Bosco 11.

2. He is an ex-officer of the ITALIAN Army, and, as the attached copies and translations of documents show, he is now being threatened with legal proceedings by the ITALIAN military authorities for assistance rendered to the Allies a few days before the invasion of SICILY.

Having been taken prisoner during the operations on PANTELIERA, he accepted an offer to serve in a parachute-saboteur unit under Allied control. He never carried out any mission, having suffered an ankle injury whilst training.

3. He is being charged, in effect, with desertion to the enemy at a time when ITALY was still at war with the Allies. It is pointed out that Marshal BADOGLIO and a large part of the ITALIAN General Staff did the same thing very shortly afterwards, and that exactly the same charges are at present being made against them by the Republican Fascists in N. ITALY.

4. If such charges are being preferred as a general rule in these cases, is it not time that some agreement was reached by higher authorities on this matter, if injustice harmful to the Allied cause is to be avoided? There must be many other men who are now in the same position. The Comando Militare Territoriale at PALERMO may of course be acting on its own initiative, or misinterpreting some order of the ITALIAN War Ministry.

5. This is not strictly a Security matter, but if such cases become widely known, the news is bound to have the worst effect on many good



he accepted an offer to serve in a peace mission, having suffered an amputation of his right arm. He never carried out any mission, having suffered an amputation of his right arm.

3. He is being charged, in effect, with desertion to the enemy at a time when Italy was still at war with the allies. It is pointed out that Marshal BADOGLIO and a large part of the ITALIAN General Staff did the same thing very shortly afterwards, and that exactly the same charges are at present being made against them by the Republican Fascists in U. ITALY.

4. If such charges are being preferred as a general rule in these cases, is it not the case that some agreement was reached by higher authorities on this matter, if injustice harmful to the allied cause is to be avoided? There must be many other men who are now in the same position. The Comando Militare Territoriale at P. L. B. C. may of course be acting on its own initiative, or misinterpreting some order of the ITALIAN War Ministry.

5. This is not strictly a Security matter, but if such cases become widely known, the news is bound to have the worst effect on many good friends of the allies here, including those assisting us in U. ITALY.

6. It is realised that many charges of desertion and absence without leave in 1943 are now being preferred, with the object of restoring the prestige of the ITALIAN armed forces; but surely this is one case in which the ITALIAN military authorities are acting as if the defeat of ITALY and the change of regime had never taken place.

7. If only for the sake of public morale, therefore, could some clarification of the position be sought from higher authority?

C.M.F.

HE.

24 Mar 45.

Copy to:-

981, 3 District.

Det., 21 P.S. Section, L. E. S. I. T. A.

21 MAR 1945

No.

AQ

Capt.,

Port Security Section.

H. Q. 207 SUB AREA.



HEADQUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

9A

AC/4053/2/L.

ES/ap.  
9 April 1945.

SUBJECT : Offences committed for patriotic motives.  
Listening to Allied Broadcasts.

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

1. Reference to Prot. No. 131.112.611/45 (Dir. Gen. Aff. Pen.) of 3 April and further to AC/4011/L of 13 Mar 45 and to the discussion with Your Excellency in the last meeting.

2. Forwarded herewith is a copy of letter dated 15 Mar 45 from the Presidente of Tribunale of Ravenna concerning 4 cases falling within the above category. Could the necessary instructions please be issued ordering the suspension of the proceedings.

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

1 Incl.



0947

785016

4053/2

Legal 8A

HEADQUARTERS EMILIA REGION  
ALLIED MILITARY GOVERNMENT  
APO 394

REF : RIX/LE/703/RA/434.

WHL/nee.  
6 April 1945.

SUBJECT: Political Cases Pending before Tribunale of Ravenna.

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

1. Forwarded herewith is copy of letter of 15/3/45 from Presidente of Tribunale of Ravenna to PLO Ravenna, concerning 4 pending cases of a political nature. The fourth case (COLINELLI and MORIGI, charged with listening to the London radio) is now before you for action of the Minister.

2. If you feel it advisable, may these other cases also be presented to the Minister. If not, an order can be issued forbidding the cases to be tried so long as the Province shall be under Allied Military Government. The accused are not in confinement.

For the Regional Commissioner:

1 Incl: as above.

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



| SUB COMMISSION   |  |
|------------------|--|
| Chief Counsel    |  |
| Legal Section    |  |
| Records          |  |
| Training         |  |
| Public Relations |  |
| Other            |  |



copi a

R. TRIBUNALE DI RAVENNA

N.37 di protocollo

OGGETTO: Processi penali n.223, 254 e 309/44 -

Ravenna 15/3/1945

Sgr. UFFICIALE PROVINCIALE LEGALE

RAVENNA

Con riferimento al nostro colloquio di ieri, vi segnalo i seguenti processi pendenti pel giudizio davanti a questo Tribunale, per favoreggiamento personale, e il secondo anche per ricettazione, reati previsti e puniti rispettivamente dagli art.378 p.1° e 648 Codice Penale:

1°) MARCHETTI Guido, imputato di aver aiutato il Brigadiere Salvatore Pischedda, già comandante della stazione dei RR. Carabinieri di Santerno, disertore, a sottrarsi alle ricerche della Guardia Nazionale Repubblicana di Ravenna, nascondendolo in casa propria e dandogli modo di tenere di sottrarsi all'arresto - In Santerno l'8 marzo 1944.

2°) BALDINI Annita e BERTAZZI Pasquale, imputati di avere in concorso fra loro: a) aiutato, fornendoli di vestiti borghesi due alpini di settori, a sottrarsi alle ricerche delle Autorità; b) ricevuto indumenti militari dei due alpini che se ne erano arbitrariamente impossessati. In Castelbolognese nel Febbraio 1944 =

3°) ZANELLI Don Enrico, imputato di aver aiutato Davide Armando, Fiorentino, Rosa Amelia Fiorentino e Riccardo Mortara di razza ebraica ad eludere le investigazioni dell'Autorità e a sottrarsi alle ricerche di questa per non essere inviati in un campo di concentramento. In Casola Valsenio il 22 dicembre 1943.

In detti tre processi, espletata la istruzione sommaria, il



Con riferimento al nostro colloquio di ieri, vi segnalo i seguenti processi pendenti per giudizio davanti a questo Tribunale, per favoreggiamento personale, e il secondo anche per ricettazione, reati previsti e puniti rispettivamente dagli art. 378 p. I° e 648 Codice Penale:

1°) MARCHETTI Guido, imputato di aver aiutato il Brigadiere Salvatore Pischedda, già comandante della stazione dei RR. Carabinieri di Santerno, disertore, a sottrarsi alle ricerche della Guardia Nazionale Repubblicana di Ravenna, nascondendolo in casa propria e dandogli modo di tentare di sottrarsi all'arresto - In Santerno l'8 marzo 1944.

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In detti tre processi, espletata la istruzione sommaria, il Pubblico Ministero richiede la citazione a giudizio degli imputati, rispettivamente in data 16 giugno, 6 luglio e 5 settembre 1944; ma il giudizio non potrà celebrarsi per alcuno di essi, per le note sopra giunte contingenze belliche.

Resto in attesa di comunicazioni anche per quel che riguarda il processo contro GOLINELLI e MORIGI, precedentemente segnalato con nota del 2 gennaio c.a.

IL PRESIDENTE  
Fto Mastrobuono



HEADQUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

7A

AC/4053/2/L.

/mt.  
8 April 1945.

SUBJECT : Case of MORIGI Enrico and GOMINELLI Aldo.

TO : Regional Commissioner (Attn: Regional Legal Officer)  
EMILIA Region.

1. Further to AC/4053/L of 5 Mar 45 referring to your REX/IR/655/159 dated 1 Mar 45.

2. The following communication of the Ministry is relayed for your information:

"Si comunica a codesta Commissione che questo Ministero ha scritto ai Capi della Corte di Appello di Firenze ed ai Procuratori del Regno di Forlì e di Ravenna affinché essi diano disposizioni di sospendere i procedimenti di cui in oggetto, in attesa che l'atto di clemenza del 5.4.1944 possa essere esteso ai territori suddetti, ancora sottoposti all'Amministrazione Militare Alleata."

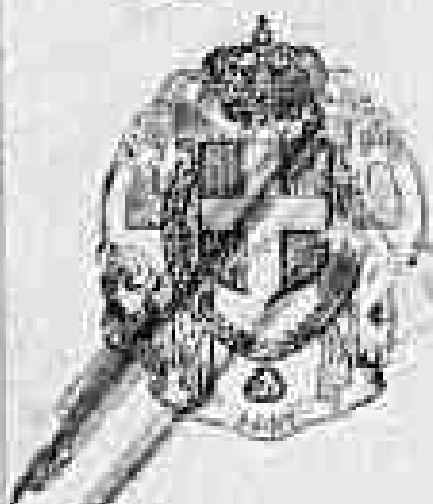
By command of Rear Admiral STONE:

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



fm

Mod. 402



# MINISTERO DI GRAZIA E GIUSTIZIA

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

Ufficio I° A.P.

Prot. N° 131.112.611/45

Risposta al f. N° A.C. 4011.I.

del 13.3.945

Roma.

3 aprile 1945

ALLA COMMISSIONE ALLEATA - Sottocommissione Legale

OGGETTO: Procedimenti penale a carico di persone imputate di ascoltazione di radio alleate.

ROMA

e per notizia:

All'Ufficio di Collegamento del Ministero.

GABINETTO

Si comunica a codesta Commissione che questo Ministero ha scritto ai Capi della Corte di Appello di Firenze ed ai Procuratori del Regno di Forlì e di Ravenna affinché essi diano disposizioni di sospendere i procedimenti di cui in oggetto, in attesa che l'atto di clemenza del 5.4.944 possa essere esteso ai territori suddetti, ancora sottoposti all'Amministrazione Militare Alleata.

pel MINISTRO  
(A. Spallanzani)

7 APR 1945

6 APR 1945



HEAD QUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

5 A  
GCH/cap

4053/2  
AC/AQ11/L

13 March 1945

SUBJECT : Italian citizens charged with listening  
to Allied broadcasts prior to 8 Sep 43

TO : H.E. The Minister of Justice

1. A number of cases as mentioned above are now pending before Italian Courts in newly liberated provinces of Tuscany and Emilia.

2. In many instances the "istruttoria" has been completed and, in the absence of Primo Presidenti and Procuratori Generale, there appears to be no alternative for the "Giudice Istruttore" except to commit the offenders to trial before the competent jurisdiction.

3. Your Excellency will agree that it is obviously most undesirable to have this type of offender tried in Army areas or AMG territory. However, in view of the fact that the war legislation which created the offence has not been abrogated, may we request Your Excellency to be good enough to issue a general circular to all Procuratori Generale and Procuratori del Regno instructing them to discontinue proceedings against persons "sub judice" for the offence of having listened to Allied broadcasts either before or after 8 September 1943.

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

*wrong file*  
*this is for allied*  
*not against allied*  
*interests*

HEADQUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

LFA

4053/2  
AC/4053/2

GHI/mt.  
5 March 1945.

SUBJECT : Case of MORIGI Enrico and GOLINELLI Aldo.  
TO : Regional Commissioner (Attn: Regional Legal Officer),  
EMILIA Region.

3A  
Reference your RIX/LW/655/159 dated 1 March 1945.

1. Under Art. 378 of CPP the "Giudice Istruttore" can always dismiss a case up to the last stage of the "Istruttoria". If the case has already been referred to the Court, there is nothing to do except to hear it, but the President, if he is well advised, can find many grounds out of present legislation, to acquit the accused.

2. Your reference to General Order 18 is not understood. First of all it implements an Italian decree abrogating racial discrimination. No such provisions exist in Italy in so far as listening to foreign broadcast is concerned.

3. Even if such an order had been issued, as in Sicily, contrary to the existing legislation of the Sovereign State, you are no doubt aware that complete elimination of racial discrimination was and is still one of the main Allied purposes in waging war. Racial provisions are considered as a negation of all civilized concept of law and justice, and as such should be eradicated.

4. The same point of view cannot apply to a legitimate measure of self protection taken by a government under war conditions.

I feel you must appreciate the distinction between the sovereign state abrogating existing legislation and itself extinguishing prosecutions initiated thereunder and an occupying state extinguishing prosecutions under a law which was perfectly proper according to the international standards at the time it was passed.

5. In cases similar to the one in point, the Minister of Justice has granted "condono" or "amnistia" of the sentence, but he has never interfered with the course of procedure.

././.

= 2 =

6. If you are reluctant to use the step recommended in para 2 of AC/4053/L, please forward the dossier of the case to this office in order that a decision may be reached with full knowledge of the facts.

7. It is presumed that both MORIGI and GOLINELLI are in provisional liberty.

By command of Rear Admiral STONE:

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



4053/2  
 HEADQUARTERS EMILIA REGION  
 ALLIED MILITARY GOVERNMENT  
 APO 394

Legal 1623

3A

Ref : RIX/LE/655/159

WHL/dsh.  
 1 March 1945.

SUBJECT : Proceedings against MORIGI Enrico and GOLINELLI Aldo.

TO : Deputy Chief Legal Advisor, Legal Sub-Commission,  
 Headquarters, Allied Commission, APO 394, (For Lt. Col.  
 Hannaford).

24

1. Reference your AC/4053/L, 29 January 1945, the procedure outlined in para 3 of your letter has been followed, but as I anticipated the Procuratore del Regno of Ravenna advises that since he sent the case for "Istruzioni" some time ago, he is not authorized to interfere with the normal progress of the case (citing C.P.P. Art. 74).

2. The Presidente del Tribunale concurs in the foregoing and adds:

a.) That since the "Istruzioni" is completed, as far as the court is concerned, the only course now open is to proceed to the formal hearing and return a verdict.

b.) That at this stage there is no process known to the Italian law by which the case can be discontinued.

3. In making the suggestion contained in my letter of 24 January 1945, it seemed to me that the simplest and most direct way to handle this situation was for you to request the Minister of Justice to order the proceedings dismissed, and such order to be followed by a similar order of the Chief Legal Advisor.

4. While you state that such an order is invalid under international law, I find precedent for it in General Order No. 18, (Rights of Jews). There, the Chief Civil Affairs Officer ordered (Art. 7):

"All penal proceedings now pending for violation of the racial laws are quashed".

This order was based on R.D.L., 20 January 1944, No. 25.

5. I do not consider the procedure outlined in para 2 of your letter to be a satisfactory solution of this situation.





6. I await your further instructions.

For the Regional Commissioner:

*W H Levit*

WILLIAM H. LEVIT  
Lt. Col. J.A.G.D.  
Regional Legal Officer.

|                      |  |
|----------------------|--|
| LEGAL SUB COMMISSION |  |
| CLO                  |  |
| DCLO                 |  |
| Chief Counsel        |  |
| CJO                  |  |
| Region Section       |  |
| CL RKS               |  |
| 4 MAR 1945           |  |

HEADQUARTERS ALLIED COMMISSION  
APO 394  
LEGAL SUB-COMMISSION

24

4053/2  
AC/4053/E.

GGH/ap.  
29 January 1945.

SUBJECT : Proceedings against MORIGI Enrico  
and GOLINELLI Aldo.

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

1A

1. Reference your RIX/LE/670/RA/394 of 24 Jan 45,  
under International Law an order directing a Court of an  
occupied country to dismiss pending proceedings would be  
invalid.

2. What can be done is to order that a trial will  
not take place during the period of AMG occupation.

3. To date the usual method in such cases is to  
approach the "Procuratore del Regno" and to request him to  
abandon proceedings against the defendants by using existing  
Italian procedure ( decision of "giudice istruttore", action  
of "Procuratore Generale" etc.).

4. If the "Procuratore" refuses to comply with such  
request, please inform this sub-commission and necessary steps  
will be taken through the Minister of Justice.

By command of Rear Admiral STONE:

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

NR

HEADQUARTERS EMILIA REGION  
ALLIED MILITARY GOVERNMENT  
APO 394

Ref : RIX/LE/670/RA/394

WHL/dsh.  
24 January 1945.

SUBJECT : Proceedings against MORIGI Enrico and GOLINELLI Aldo.

TO : Deputy Chief Legal Advisor, Legal Sub-Commission, Headquarters,  
Allied Commission, APO 394, U.S. Army.

1. Proceedings are pending against the above in the Tribunale of  
Ravenna for listening to the London radio on 25 August 43.

2. May an order be issued to the Tribunale directing that these  
proceedings be dismissed.

For the Regional Commissioner:

*William H. Levitt*

WILLIAM H. LEVITT  
Lieut. Col., J.A.G.D.  
Regional Legal Officer.

|                     |   |
|---------------------|---|
| LEGAL SUB-COMMISSIO |   |
| CIO                 |   |
| DCIO                |   |
| Chief Counsel       |   |
| CJO                 |   |
| Italian Section     | # |
| CL RKS              |   |
| 27 JAN 1945         |   |

HEADQUARTERS  
27 JAN 1945  
A C



REAR HEADQUARTERS  
ALLIED CONTROL COMMISSION  
Legal Sub-Commission  
APO 394

SECRET -

103/4086/1/L.

30 June 1944.

SUBJECT : Italian Military Deserters.

TO : RLOs (Thru RCOs) Regions, 1, 2, 3, 4, 5, 6, 7, 8.  
SLOs AG 5th & 8th Armies.

1. Appended hereto is the text of the agreement arrived at with the Italian Government on the 9th May 1944 for the handling of Italian Military Deserters.
2. It will be the duty of RLOs by inquiry of Italian Military Tribunals sitting in their locality to see that these terms are observed.

(sgd) G. R. URJOHN, Colonel,  
Chief Legal Officer.

Copy to Executive Commissioner.

TEXT OF AGREEMENT WITH ITALIAN GOVERNMENT ON HANDLING OF ITALIAN MILITARY DESERTERS

1. The position of all members of the Italian Armed Forces, who have been or will be accused of having deserted such forces within the period July 10th - September 8th 1943 inclusive, will be settled by the Italian authorities by the choice in each case of one of the following ways so that no punishment which is consequential to such desertion be undergone by the said members of the Italian Armed Forces:
  - (a) "Archiviazione degli atti" (nolle prosequi) according to Art. 74, para 3 Italian Code of penal procedure;
  - (b) "revoca dell'azione penale" (revocation of criminal action) according to Art. 245, para 4, Italian military penal code of war;
  - (c) acquittal at any stage;
  - (d) conviction followed by "grazia" (pardon) or "condono" (general pardon).

2. In the case of members of the Italian Armed Forces who have deserted within the period July 10th - September 8th 1943, inclusive, and who have not answered subsequent requests to return to the Italian Armed Forces, included in ordinances or proclamations issued by Italian military authorities after September 8th 1943 and duly published, the desertion perpetrated between July 10th and September 8th 1943, inclusive, shall not be punished as such and by itself but it shall be taken into account, if and whenever necessary, so as to punish as crime of desertion the failure to answer the requests

Copy to Executive Commissioner.

Chief Legal Officer.

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3. The above will not apply to those who deserted to the Germans or to other armies or military formations hostile to the Allied Forces.

No publicity shall be given to the present agreement.

Salerno, May 9th 1944.

(s) ROEL MACPHERLAIN

LC

Chief Commissioner

ACC

(s) MACPHERLAIN

Oct. 1st

Chief Judicial Officer

Chief Affairs Officer

for

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UNCLASSIFIED



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