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Unidentified G.O. 12356 Section 3.3/WND No.

785016

ACC

10000/142/533
(VOL. 2)

0335

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

785016

PRISONERS OF WAR
(APR. 1944); DEC. 1944 - NOV. 1946

VP CA Sec

Please see folio 101A & B.

In spite of Colonel Troxell's reference to policy there does not appear to exist any valid reason for the trial not to take place before an ordinary Italian Court.

Will you please advise this sub-commission whether you agree.

Legal S/C
16 July 1945

G.G. HANNAFORD

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

Legal. (2)

This was a crime committed before liberation by an ex P.O.W. Surely the allies, even in exceptional cases, can have nothing to say in the matter. Whether the fact that the accused was an ex P.O.W. fighting with partisans affords any defense at the trial is presumably a matter for the Italian Court.

16 July

G.G. Hannaford

CONFIDENTIAL

2-16 A

HEADQUARTERS ALLIED COMMISSION
A.P.C. 394
PUBLIC SAFETY SUB COMMISSION
SECURITY DIVISION

REF : SD/550.1

5 December 1944

SUBJECT : Internee CUTELLE' Nicola

TO : Legal Sub Commission

1. Nicola CUTELLE' is interned in 371 P.O.W. Camp
is a danger to military security.

2. He will not be brought to trial. Would you like
me to forward his appeal to the appropriate authority.

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

DOWN GRADED
TO
UNCLASSIFIED

SJH/nb

35

See our letter
2 Dec 44
Col. Inf.
Chief Judicial Officer.
for Chief Civil Affairs Officer.

CONFIDENTIAL

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

215A

AG/4083/23/L.

/mt.
2 December 1944.

SUBJECT : Informal Petition- GUTHRIE' Nicola.
TO : Public Safety Sub-Commission.

1. I attach an informal petition received on behalf of a certain Nicola GUTHRIE' alleging that he is detained in Badula Concentration Camp (Salerno) without trial.

2. This is in all probability a case of internment for security reasons but would you please make enquiries to ascertain that he is not being inadvertently held on other grounds without trial.

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

FILE
214AHEADQUARTERS ALLIED COMMISSION
APO 794
LEGAL DIVISION

AG/4076/L

ST/NS
9 November 1946

SUBJECT : IVANKO Joan.

CC : Procuratore Militare
FIRENZE.

1. Reference your memo of 17 July 1946 directing the documents in the case of IVANKO Joan to be sent to this Division.

2. The following has been received from Allied Force Headquarters regarding Ivanko:

(a) "Enquiries indicate that subject was arrested by CC.MR. Siena, on 4 July 45 following information received that he was concerned in certain shop robberies. During the first interrogation he stated that he was a Russian and that he was taking steps with the Allied Authorities at Siena for his repatriation. Later he admitted that he was a soldier in the German army and that he had escaped from a POW Camp near Bologna. Enquiries continue but it is not considered likely that anything new will come to light.

(b) If subject is still at the disposal of CC.MR. Siena and they do not intend to prefer charges against him it is suggested that he be interrogated to ascertain details of his service in the German army and his escape from PW Camp. The facts should then be reported to "A" Branch GHQ CMF to ascertain whether or not they wish to dispose of him as an escaped PW. He is not of GI interest and in the event of neither of the above alternatives being successful it is recommended that he be handed to the Italian authorities for such disposal as they consider necessary."

- 2 -

3. This Division would be obliged if action could be taken in accordance with the request from AFHQ as indicated in para 2 (b) above.

4. The documents are returned herewith.

MUSGRAVE THOMAS,
Italian Branch,
for Chief Legal Advisor.

Incls.

HEADQUARTERS ALLIED COMMISSION
A.F.O. 794
PUBLIC SAFETY DIVISION
SECURITY SUB DIVISION

913A

REF : SD/540

5 November 1946

SUBJECT : IWANKO Joan

TO : Legal Division

1. Reference the attached file, concerning the above named.
2. IWANKO is of no security interest therefore the file is returned herewith together with copy of AFHQ letter GHI. 389.702 for information and action as requested.

FOR THE CHIEF COMMISSIONER:

E. J. Bye
E. J. BYE,
Colonel,
Director,
Public Safety Division.

1 31

AHE/nb

LEGAL SUB - COMMISSIONER	
ADM-CL	
ECID	
CHIEF COUNSEL	
LEGAL SECTION	
REC'D	NOV - 7 1946

JOINED FORCES HEADQUARTERS
Office of the Assistant Chief of Staff G-2
APO 512, U.S. Army

GRI. 389.702

1 November 1946

SUBJECT : ITALIAN JAMES

TO : HQ Allied Commission,
Public Safety Sub Commission,
Security Division.

1. Reference your HQ/340 dated 26 October 1946.
2. ⁽¹⁰⁾ ~~Enquiries~~ Enquiries indicate that subject was arrested by G.P.R. ~~IRMA~~ on 4 July 45 following information received that he was concerned in certain shop robberies. During the first interrogation he stated that he was a Russian and that he was taking steps with the Allied Authorities at GLEN for his repatriation. Later he admitted that he was a soldier in the German army and that he had escaped from a POW Camp near BOLOGNA. Enquiries continue but it is not considered likely that anything new will come to light.
3. ⁽¹⁰⁾ If subject is still at the disposal of G.P.R. ~~IRMA~~ and they do not intend to prefer charges against him it is suggested that he be interrogated to ascertain details of his service in the German army and his escape from the PW Camp. The facts should then be reported to "A" Branch G.H. C.M.P. to ascertain whether or not they wish to dispose of him as an escaped PW. He is not of CI interest and in the event of neither of the above alternatives being successful it is recommended that he be handed to the Italian authorities for such disposal as they consider necessary.

For the Assistant Chief of Staff G-2

36

3/ 7123777777
S/ D. M. YOUNG,
Lt. Colonel, G-2,
G-2 (CI) Section.

RTS/wj

ALLIED [REDACTED] COMMISSION
INTER-OFFICE MEMORANDUM

SUBJECT:

TO

Capt. Ellis

FILE NO.

18 Aug. 1946

Will you please ascertain if
JSS still require that person
kept in custody etc on
Security grounds.

EJL

29

(Translation a.s.)

CHS P.2.
having examined the files concerning

THANXO Jean son of Jean.

from which it appears that the above is not a member of the
Italian Army, but belongs to the Allied Army, and that he
was taken in charge of by the GIRM Town Major on the 10/7/45.

ORDERS

that the files be transmitted to the Allied Commission, Legal
and Correlation - ROMA.

the Procureure militaire

sgt/ VALLI Gino, Vice.

Pierance 17/7/46

This was passed to us Legal at
Disposal instructions psc

EL 31b.

5826/5 / 6378 bot
IL P. M.*Long Trans J*
Contents
per

Letti gli atti a carico di

IWANKO Ioan di Joan

Ritenuto che l'imputato non fa parte delle Forze Armate Italiane ma sembra
che faccia parte dell'Esercito alleato e che in data 19/7/1945 fu preso
in consegna dal Town Major di Siena

Ritenuto pertanto che questa autorità è incompetente

O R D I N A

trasmettersi gli atti all'Autorità Alleata presso la Commissione Alleata -
Ufficio pratiche Giudiziarie - Roma

Firenze, li 17 Luglio 1946

IL S. PROCURATORE MILITARE
(Ten. Valleri Gino)

Valleri

(Security 8.3.)

The letter by the Procureur Militaire Lieut. VALLERIE Dion, attached to which are the files concerning a certain IVANKA Jean, transmits the whole case to the Legal S.C. (Allied Commission) for competency. From the attached files, it appears under which circumstances the man was arrested. The arrest was performed by the D.C. 17, 18 of the Centrone d'Arbit (Vienna) Station, who held up the foreigner in question on the 2nd July 1945. During his interrogatory, IVANKA, who was found in possession of a pick-lock, stated to be a Czechoslovak. He added that during the war, he had been a member of a German labor organization, and that, having been wounded, he had for 3 months recovered in a German hospital in the neighbourhood of Cologne. After his release from there, he wandered about in the district, then reaching Centrone d'Arbit. He did not deny that two evenings before, talking with a peasant at Centrone, he had declared to be a Russian, which he also persisted at the very moment of his arrest. He stated to have done a such declaration because he thought that this way he would not been arrested by the Italian Police. Anyway, as he was not able to give satisfactory explanations about his presence here and his intention, on the 7th July 1945 he was handed over to the Swiss F.B.O. On the 19th following, he was taken in charge of by the Swiss town major, who disposed for his further destination, which is not known as the Procureur Militaire.

4070 file

312A

LAND FORCES SUB COMMISSION A.C.
M.A.S.
ITALIAN PRISONERS OF WAR DIVISION

IP/1/1cm/1574 B

24 May 1946

(date)

SUBJECT : Release of Italian PW on Compassionate Grounds-
Lt.MALITO Francesco

TO

Legal Sub-Commission -
A.C.

ALLA

Reference your L.O. of AC/4076/L dated 5 April 46

1. The result of the investigation re fa-
mily of the above mentioned PW, is forwarded.

For the Chief Commissioner:

[Signature]
LANCE S. REGIS
Lieut. Colonel
Chief
I.P.W. Div.

25

LEGAL SUB COMMISSION

TO

TO

Chief Counsel

TO

Refugee Section

EL RKS

27 May 46

1 Encl : Translation copy of letter from M.P.W.A.

*I informed Prof. Varsall
by phone. [Signature]*

2882

9461 07 1410

ITALIAN PRISONERS OF WAR DIVISION

211A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AP/ma.

AC/4076/L.

5 April 1946.

SUBJECT : Prisoner of War.
Sottotenente Malito Francesco.

TO : Italian Prisoners of War Sub-Commission.

It would be very much appreciated if the repatriation of Sottotenente Malito Francesco, No. 51895 Camp No. 28 Wing 1/B, c/o G.P.O. Bombay could be given your early attention.

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

4 23

STUDIO VASSALLI
15 LUNGOTEVERE VALLATI ROMA

TEL. 55521

Sottotenente MALITO FRANCESCO,
n. 31395 Cent. n. 28 Wing 1/B
c/o G.P.O. BOMBAY.

Attention: Italian Prisoners of War Sub-Commission.

3

22

style alla italiana in America

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB COMMISSION

1104

AC/4075/L

AP/ns
28 March 1946.

SUBJECT : Repatriation of POWs Guido COLUCCI
and Francesco LUSARDO.

TO : Italian PW Sub Commission
Hq. AC.

1. Herewith enclosed applications
on behalf of the above mentioned Prisoners of War.

2. It would be very much appreciated if
you could give these cases an early attention.

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

Incls.

4

21

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB COMMISSION

AC/4076/-1

/ns
19 March 1946.

SUBJECT : Soldato BACCHILEGA Virgilio.

TO : Italian P.O.W. Sub Commission.

1. Herewith enclosed documents received from the Ministry of Pardon and Justice concerning the above mentioned.

2. May this Sub Commission please be informed at your earliest convenience of the present position of BACCHILEGA.

ANTHONY P. NUGENT,
Major, Asst.,
Chief Counsel,
for Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

MP/nda.

AC/4076/L.

14 March 1946.

SUBJECT : Soldato BACCHILEGA Virgilio.
TO : Ministry of Pardon and Justice.

1. Reference yours UC/4813 dated 2 March 1946.
2. This Sub-Commission is taking the necessary steps to obtain all available informations on the above mentioned.
3. You will be informed as soon as possible of any development which may occur in this matter.

Anthony P. Nugent
ANTHONY P. NUGENT
Major, AUS,
Chief Counsel,
for Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

MF/sda.

AC/4076/L.

14 March 1946.

SUBJECT : Soldato BACCHILEGA Virgilio.
TO : Public Safety Sub-Commission.

1. Herewith enclosed documents received from the Ministry of Pardon and Justice concerning the above mentioned.
2. May this Sub-Commission please be informed and your earliest convenience of the present position of BACCHILEGA.

Anthony P. Nugent
ANTHONY P. NUGENT
Major, MC,
Chief Counsel,
for Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

106A

Ref: AG/14008/1/PS

7 Nov 45

SUBJECT : Correspondence on Italian Prisoners, Internees, etc.

TO : RGS Lombardia, Liguria, Piemonte, Venezia Regions (Attn. RPSO)
SCAO Venezia Giulia - Commissioners Livorno Zone (Attn. PSO),
Naples Commune (Attn. SCAPO) - LOS Ancona, Bari, Catania,
Palermo, Bologna (Attn. PSO) - RAAC (Attn. Lt Col Millhouse).

- 1 Italian civilians originating correspondence relating to Italian Prisoners or Internees will be informed that Regions will not accept such correspondence and that they should address their enquiries as follows:-
- In the case of Prisoners of War under Allied Control outside Italy, to the Italian Prisoners of War Sub-Commission, Allied Commission.
 - In the case of all other Prisoners of War or members of the Fascist Republican Forces, to the Italian Red Cross, Via Toscana, 12 - ROME.
 - In the case of civilian internees, to the Ministry of the Interior, Piazza Virinale - ROME.

- 2 Please see that Prefects, Sindaci and Questori understand this.

BY COMMAND OF THE CHIEF COMMISSIONER:

M. CAMR, Brig,
VP CA Section.

17

Copies to:- Land Forces S/C
IFW Div.
Public Safety S/C
Legal S/C

DP&R S/C
Ministry of Interior
Ministry of Grace & Justice
Ministry of Post War Assistance
Ministry of War
Italian Red Cross

LEGAL SUB-COMMISSION

CLO

DCLO

Chief Counsel

CIO

Italian Section

CL-RKS

105A

HEADQUARTERS ALLIED COMMISSION
 APO 394
 CIVIL AFFAIRS SECTION
 ITALIAN PRISONERS OF WAR DIVISION

4070
IPW 12/7 PBS/13377 Sep. '45

SUBJECT : Ten.Col. FERRARA
 TO : Ministry of War
 for the Min. of Post War Assistance (PW Bureau)

1. Attached medical certificates which have been received through Allied Commission NOVARA Prov. and are passed to you for such action you may find appropriate.

Howe Hammett
 J.E. REGIS
 Lieut. Col.
 Chief
 IPW Div.

Copy to: Legal S/C. your A2/4076/L of
 27 Aug. refers

104A

RECEIVED
TO
Chief Counsel
CID
11 SEP 1945

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

ES/10.

27 August 1945.

AC/4076/L.

SUBJECT : Lt. Col. FERRARA. Application for release of IPW.
TO : W.M.D. and I.P.O.W. Sub-Commission.

Enclosed herewith for any action you might deem
fit is the above application forwarded to this Sub-Commission
by P.C. Novara.

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

15

Incls.

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
INTERNAL SECURITY
APO 354
Legal Division

103A

W. Neel

Ref.: LRG/5041

9 July 1945

SUBJECT: Prisoner - of - War.

TO : HQ, Allied Commission - Legal Sub-Commission ✓
(Attention Lt. Col. Hannaford)

1. U.S. Michele Giuliano has requested this Division to obtain information as to the present whereabouts of a certain Tenente GIUSEPPE BRADIS, now a P.O.W. in Allied hands.

2. This man, who belonged to the G.I.R. Confinaria (Comando V Regione di Milano, Varese) was arrested on 25th April and taken to the P.O.W. camp at Modena. It is believed that he has since been moved, but his family has had no news of him since the time of his arrest. 14

3. This enquiry is forwarded to you, as it has been suggested by the Regional Security Officer that the Army Sub-Commission may have records of Italian prisoners held or be able to advise where further enquiries can usefully be made.

Mr. Dickie

H. M. DICKIE
Lt. Col., R.A.F.
Regional Legal Officer.

7 D JUL 1945

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

GGH/lc.

17 July 1945.

AC/4076/L.

SUBJECT : Offences committed by ex P.O.W.-
Your Anc/11/10 of 12 July refers.

TO : Prov. Commissioner (Attn: Senior Legal Officer),
ANCONA Commune.

This was a crime committed before liberation by an ex P.O.W. It does not appear that this is an exceptional case justifying trial by an Allied Court. Whether the fact that the accused was a P.O.W. fighting with the partisans affords any defence at the trial is a matter for the competent Italian Court to decide.

By command of Rear Admiral STONE:

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

13

4070
 HEAD QUARTERS
 ALLIED MILITARY GOVERNMENT
 ANCONA PROVINCE

LEGAL SL
 (10/11)

Subject: Prisoners of War

To: C.L.A. Legal Sub Commission A.C. - ROME

LEGAL OFFICE

From: S.L.C. Ancona Commune

Ref: Anc/11/10

Ancona

Date: 12 July 1945

1. The attached letter is forwarded to your office as it contains matters of policy.

For the Provincial Commissioner

1 Incl.

ART/LT

A.R. TROXELL
 Lt. Col.
 Senior Legal Officer
 Ancona Commune

Stay
 At Home any presidents
 7 11 12

To Ministry of ~~XXXX~~ Justice

General Direction of Penal Affairs

Rome.

101B
Eng

To Regional Legal Office. A.M.S. ~~XXXX~~.
Alcorno.

Subject: Offences committed by former Prisoners of War who
evaded from concentration camps.

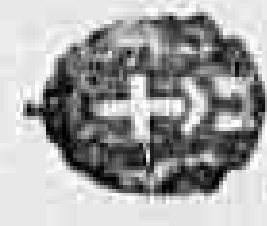
On 22 April 1944 in the locality Madonna delle Velle
di Bevagna (Perugia) the Yugoslav citizen Harun Redjepovic,
a former prisoner of war who evaded after 8th Sept. 43 from a
concentration camp, killed by pistol shots the Italian citizen
Lepri Martino, with the complicity of two other Slavs, Scatton
& Nemet whose further particulars are unknown.

On denunciation submitted by the victim's widow
to the GCR station of Bevagna on 13 September 1944, regular
Court proceedings were started after the liberation of this
area against the authors of the crime who - along with Lepri
and other young Italians - were members of a partisan band
operating in the a/d locality under Lepri's command.

It has been pointed out to this Procura Generale that
the above crime, having been committed by former P.O.W.s operating
with Italian partisan units in Italian territory then occupied by
the Germans, should be excluded from the competence of Italian
Courts. We therefore ask if - owing to special conventions -
such offences are in fact dealt with without considering the
territorial principle of penal law.

The Procuratore Generale del Regno.

0 3 6 1



PROCURA GENERALE DEL RE IMPERATORE
PRESSO LA SEZIONE DI CORTE D'APPELLO DI PERUGIA

Prot. N. 1255

Risposta a nota N.

del

Alleg. N.

Perugia, 7 luglio 1945.

Al MINISTERO DI GRAZIA E GIUSTIZIA
Direttore Generale Affari Penali

ROMA

ALL'UFFICIO LEGALE REGIONALE
presso il Comando Militare ~~distretto~~ ANCONA

OGGETTO. Rasti concessi da ex prigionieri di guerra evasi dai campi di concentramento.

pho

In data 22 aprile 1944, in località Madonna della Valle di Bevagna (Perugia), il suddito jugoslavo Harun Redjepovic, ex prigioniero di guerra evaso dopo l'8 settembre 1943 dai campi di concentramento, uccideva a colpi di pistola, di coerenza con altri due slavi - tali Soluben e Konst non meglio identificati - la cittadina italiana Lepri Martine.

Contro gli autori del delitto, i quali facevano parte, insieme del Lepri ed altri giovani italiani, di una banda di partigiani che operava nella suddetta località al comando delle stesse Lepri, si è instaurato dopo la liberazione di questa regione regolare procedimento penale, a seguito di denuncia inoltrata in data 13 settembre 1944 dalla vedova dell'uomo cise alla Stazione Carabinieri Reali di Bevagna.

(018 Ital)

0 3 6 2

in data 22 aprile 1944, in località loderne della Valle di Bevagna (Perugia), il suddito imusslave Harun Redjepovic, ex prigioniero di guerra russo dopo l'8 settembre 1943 del campo di concentramento, uccideva a colpi di pistola, di uccisione con altri due slavi - tutti Solabon e Bonet non meglio identificati - il cittadino italiano Lepri Martino.

Contro gli autori dei delitti, i quali facevano parte, insieme col Lepri ed altri slavi italiani, di una banda di partigiani che operava nella suddetta località al comando dello stesso Lepri, si è instaurato dopo la liberazione di questa regione regolare procedimento penale, a seguito di denuncia inoltrata in data 13 settembre 1944 dalla Guardia di Finanza alla Stazione Carabinieri Reali di Bevagna.

Poichè è stato fatto presente a questa Procura Generale che il delitto in parola, poichè commesso da ex prigionieri di guerra inquadrati nelle forze partigiane italiane operanti nel territorio nazionale allora invaso dai tedeschi, esulerebbe dalla competenza dei Tribunali Italiani, si chiede se, in virtù di speciali convenzioni, la suddetta materia sia, come si sostiene, regolata in delega al principio della territorialità della legge penale.

IL PROCURATORE GENERALE DEL REGNO
11106 1945

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

100A

AC/4076/L.

WEB/lc.
14 June 1945.

SUBJECT : Todt Organisation.

TO : Regional Commissioner (Attn: Regional Legal Officer-
2 copies), PIEMONTE Region.

1. The reply to the question raised in your P7/LE/400
of 9 June 45 is - NO.

2. If you could inform us of any specific point upon
which you wish to be advised we shall be prepared to do our
best to assist.

By command of Rear Admiral STONE :

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

785016

99A

9 June 1945.

SUBJECT : Todt Organisation.
TO : A.C. Legal Sub-Commission.

For the Regional Commissioner.

EJM/CB

LEG	MISSION
CLO	+
DCLO	
Chief Clerk	
CJO	
Italian Section	
CLERKS	
10 JUN 1948	

3. The reply with your
 names in for PACE/2002
 again
 for NO
 if you want to
 of the...
 and you...
 will be...
 be...
 again

HEADQUARTERS ALLIED COMMISSION
APO 394

Ref: IPW/46/2

13 March 1945

EXECUTIVE MEMORANDUM

NUMBER 3)

REPATRIATION OF ITALIAN NATIONALS TO ITALY.

1. This Memorandum sets out the classes into which Italian Nationals held as Prisoners of War and Internees are divided, and the procedure which must be followed in making application for their repatriation.

2. There are two main classes:

- (a) Italian Prisoners of War i.e. members of the Italian Forces in Allied hands and Italian Merchant Seamen who have been interned by any of the Allied nations.
- (b) Civilians and groups of civilians living or interned outside Italy.

ITALIAN PRISONERS OF WAR AND MERCHANT SEAMEN.

3. WAR MATERIALS DISPOSAL AND ITALIAN PRISONERS OF WAR SUB COMMISSION is responsible for the handling of all questions concerning the repatriation of Italian Prisoners of War and Italian Merchant Seamen.

4. The following are the categories in which Prisoners of War or Merchant Seamen may be repatriated.

(a) Entitled Repatriates.

Sick, wounded, those who are 60 years of age or over, those who are over 50 years of age and have been two years in captivity. These Prisoners of War are now being repatriated automatically as shipping becomes available and will be demobilized on arrival in Italy.

(b) Compassionate cases.

Cases where Prisoners of War are required to take care of a family.

98A

0 3 6 6

have been interned by any of the Allied Nations.
(b) Civilians and groups of civilians living or interned outside Italy.

ITALIAN PRISONERS OF WAR AND MERCHANT SEAMEN.

3. WAR MATERIALS DISPOSAL AND ITALIAN PRISONERS OF WAR SUB COMMISSION is responsible for the handling of all questions concerning the repatriation of Italian Prisoners of War and Italian Merchant Seamen.

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(a) Entitled Repatriates.

Sick, wounded, those who are 60 years of age or over, those who are over 50 years of age and have been two years in captivity. These Prisoners of War are now being repatriated automatically as shipping becomes available and will be demobilized on arrival in Italy.

(b) Compassionate cases.

Cases where Prisoners of War are required to take care of a family who have no other means of support, on conditions similar to those under which an Allied soldier would be posted home. Such cases are comparable to those of men of military age exempted from service, and will be demobilized on arrival in Italy.

(c) Priority workers.

Workers who are required by a U.S. or British agency or by an Italian Government agency for important work as a direct contribution to the Allied War Effort. Such cases are comparable to those of men of military age exempted from service as key workers, and will be demobilized on arrival in Italy.

(d) Effective Members of the Italian Armed Forces.

Prisoners of War who are required for active service with the Italian Armed Forces. Approval must first be obtained from the Service Sub-Commission concerned.

PROCEDURE TO BE FOLLOWED IN DEALING WITH ITALIAN PRISONERS OF WAR AND MERCHANT SEAMEN.

5. All applications and enquiries regarding repatriation with- in classes 4 (a) and (b) will be forwarded direct to the Italian High Commissioner for Prisoners of War, Corso Vittorio Emanuele 120, Rome.

6. Requests will only be submitted under 4 (c) when respon- sibility is accepted by the Director of the Sub-Commission, Regional Commissioner or the Italian Government agency, submitting the case that the prisoner of War concerned will fill and is qualified to fill the appointment for which he has been requested. Requests under 4 (c) made by an Italian Government agency will in the first place be submitted to the Italian High Commissioner for Prisoners of War.

7. All requests for repatriation under 4 (d) will be initiated by the service Ministry concerned to the appropriate service Sub- Commission. The requests will give full particulars of the per- sonnel required and their proposed employment in the Armed Forces. After approval by the service Sub-Commission concerned the requests will be returned to the service Ministry for submission to the Italian High Commissioner for Prisoners of War. Prisoners of War will not be absorbed into the Armed Forces in ITALY by any other means.

8. The Italian High Commissioner for Prisoners of War will check and collate all applications and requests made to him and will forward them to War Materials Disposal and Italian Prisoners of War Sub-Commission which will, if it approves, make formal ap- plication to higher authority.

9. In all cases under the above conditions repatriated Italian Prisoners of War of military age will only be demobilized or re- leased from service for other duties provided the service Ministry concerned does not require their retention in the Armed Forces.

CIVILIANS LIVING OR INTERNED OUTSIDE ITALY.

10. The DISPLACED PERSONS AND REPATRIATION SUB-COMMISSION will be responsible for the handling of all applications for the repatria- tion of civilians and groups of civilians living or interned outside Italy.

After approval by the service Sub-Commission concerned the requests will be returned to the service Ministry for submission to the Italian High Commissioner for Prisoners of War. Prisoners of War will not be absorbed into the Armed Forces in ITALY by any other means.

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CIVILIANS LIVING OR INTERNED OUTSIDE ITALY.

10. The DISPLACED PERSONS AND REPATRIATION SUB-COMMISSION will be responsible for the handling of all applications for the repatriation of civilians and groups of civilians living or interned outside ITALY.

11. The following are the conditions on which applications may be made for repatriation of civilians to ITALY.

(a) Compassionate cases.

Cases where civilians are required to return to ITALY to take care of a family who have no other means of support. All cases on compassionate grounds will however be considered on their merits.

(b) Priority workers.

Cases where civilians are necessary to the war effort and will be a direct contribution thereto.

12. All requests from Sub-Commissions or Regional Commissioners for repatriation of civilians or groups of civilians under para 11 (a) and (b) will be forwarded direct to DISPLACED PERSONS AND REPATRIATION SUB-COMMISSION who will be responsible for screening all applications and approving them prior to forwarding them to higher authority. Directors of Sub-Commissions and Regional Commissioners will be responsible for insuring that the applications they submit are warranted by the circumstances and facts put before them. In applications under 11 (b) the civilian for whom the application is made must be qualified to hold the appointment for which he is asked and will fill the appointment after repatriation.


M.S. LUSH,
Brigadier,
Executive Commissioner.

Distribution:

List A - Groups I & II.

MSL
W.S. LUSH,
Brigadier,
Executive Commissioner.

Distribution:

List A - Groups I & II.

6

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ALLIED FORCE HEADQUARTERS

APO 512

RUE/lje
APL50

AO 383-6/121 BEI-0

6 March 1945

SUBJECT: Disposal of Present and Former Members of the Republican
Fascist Armed Forces Captured by the Allies.

TO : All Concerned.

1. In accordance with the policy approved by the Combined Chiefs of Staff, all Italians serving in the Republican Fascist Armed Forces who fall into the hands of the Allies, either during operations or behind our lines, wearing either uniform or a fixed distinctive emblem within the terms of the Hague Convention respecting the Laws and Customs of War on Land, will be treated as enemy prisoners of war.

2. This policy applies not only to personnel of the Republican Fascist Army, Navy and Air Force, but also to such forces as "Black Brigades" (Brigate Nere) and "National Republican Guard" (Guardia Nazionale Repubblicana) with the exception that members of the GNR drawn from the CC-RR. (Cerviniotti Regia) will be treated in accordance with paragraph 3 (d) below.

3. Italians who are encountered in the course of our advance will fall into one of the following classes:

a. Members of the enemy armed forces in uniform. These will be disposed of as military prisoners of war.

b. Men who, although unarmed and in civilian clothes are found on investigation to have been members of the enemy armed forces at the time when they were over run. These will also be disposed of as military prisoners of war.

c. Civilians - including those who are able to prove that, either by dismissal or desertion, they had already ceased to be members of the enemy armed forces at the time they were over run. These will only be arrested if they are considered to be a danger to security in which case

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a. Members of the enemy armed forces in uniform. These will be disposed of as military prisoners of war.

b. Men who, although unarmed and in civilian clothes are found on investigation to have been members of the enemy armed forces at the time when they were over run. These will also be disposed of as military prisoners of war.

c. Civilians - including those who are able to prove that, either by dismissal or desertion, they had already ceased to be members of the enemy armed forces at the time they were over run. These will only be arrested if they are considered to be a danger to security in which case they will be disposed of as civilian internees.

d. CC.RR. personnel will normally be instructed to report to the nearest AMG Public Safety Officer who will arrange for them to proceed to the appropriate CC.RR. reception centre where they will be screened. These centres are at present located at Rome (for officers) and Florence (for enlisted men). Any information which RSP/CIC may obtain concerning such numbers which could assist the screening officers at the reception centres in deciding how to deal with them, should be passed to the nearest Public Safety Officer. If no Public Safety Officer is readily available, it would be of assistance to AMG if such CC.RR. personnel were despatched

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DOWN GR'PED
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Col. Inf.
Chief Judicial Officer
for Chief Civil Affairs Officer.

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Ltr. Hq AFHQ, AG 383.6/121 GBI-O,
 dtd 6 March 1945 (cont'd)

to the reception center concerned. CC-PR. personnel will only be arrested if positive information is obtained indicating that they will probably present a danger to Allied security if left at liberty. In that case they will be disposed of as military prisoners of war.

4. In order to ensure that such persons who have the status of military prisoner of war are not mistaken for civilian internees, even though they may be wearing civilian clothes, it is important that their escort should be provided with a nominal roll of all prisoners of war in civilian clothes stating that they are to be treated as prisoners of war because they have been identified as members of the of the enemy armed forces and adding when possible, the unit or organization to which they belonged. This document should be clearly distinguishable from the arrest report used for civilian internees.

BY COMMAND OF FIELD MARSHAL L. M. LAWLER:

/s/ R.H. Froese

R.H. FROESE

Captain, AGD

Asst. Adjutant General

ARB/WAT/hc

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BY COMMAND OF LIEUTENANT GENERAL TRUSCOTT:

stating that they are members of the of the enemy armed forces and have been identified as members of the of the enemy armed forces. This document possible, the unit or organization to which they belonged. This document should be clearly distinguishable from the arrest report used for civilian internees.

BY COMMAND OF FIELD MARSHAL ALAN LEE:

/s/ R.H. FROSE

R.H. FROSE

Captain, AGD

Asst Adjutant General

DISTRIBUTION:

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BY COMMAND OF LIEUTENANT GENERAL TRUSCOTT:

Warren A. Thresher

Major, AGD

Asst Adjutant General

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All Troops

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ARB/WAT/hc

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4076/L.

KLP/pa.
6 Mar 45.

SUBJECT : Status of members of Volunteer Italian Air Force.
TO : Air Forces Sub-Commission.

1. It appears from the various documents referred to that a group of Italian Prisoners of War in East Africa and former Italian Air Force Personnel was permitted to organize itself under Italian General CASTALDI into a group known as the Volunteer Italian Air Force. This title was conferred on them by Air Headquarters East Africa. The arrangement came about as a result of a voluntary offer made by General CASTALDI and accepted by responsible British Military Authorities, shortly after the armistice with Italy. They were accorded favourable treatment, were quartered at E.A.F. Airfields and were assigned to do technical and maintenance work there for which their prior training and experience suited them. A number of them were repatriated to Italy by the E.A.F. where they have been serving in the Italian Air Force.

2. The complaint is now made by the members of the V.I.A.F. who remained at Aden that their treatment has been altered unfavourably and that this is being defended on the ground that they are Prisoners of War.

3. In my opinion the members of the V.I.A.F. can no longer be regarded as prisoners of war. Their status has been altered by mutual consent and by the nature of the work done pursuant to the understanding entered into with them through their General Officer.

4. According to Article 31 of the Geneva Convention of 1929 "The work to be carried out by prisoners of war will have no direct relation to the war effort".

5. The work performed by the members of the V.I.A.F. bore a direct and close relation to the war effort. Those transferred to Italy are actually participating in the war.

6. However, the V.I.A.F. was treated as a separate Group having a special task and created for a specific purpose. Its members were not regarded as individual prisoners of war.

7. The fact that a plan for co-operator prisoners of war was evolved later and that the name V.I.A.F. was conferred by the East Africa Command and not by the War Office cannot affect the basic issue as to whether their status was changed.

6. In my opinion the members of the V.I.A.F. were accepted and used in purposes inconsistent with their former prisoner of war status. They cannot now be considered to revert to that status and must be considered as cobelligerents. While the above is my opinion you will of course appreciate that it is not binding on the Middle East Command and the steps we can take to appease the Italian Government if the Middle East Command does not alter its attitude, constitute a problem to which I am offering no solution.

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

Enclosure file N° AFSC/911/2/PH

file

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HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4076/L.

/rlp.
1 March 1945.

SUBJECT : Prisoners of War.

TO : VP. CA Sec.

You have requested the opinion of this sub-commission as to the circumstances in which an organized body of troops surrendering in the field is entitled to be treated as prisoners of war. The opinion of this sub-commission is submitted.

1. The Geneva Prisoners of War Convention, 1929 applies to "all persons (of a certain category) who are captured by the enemy." All persons of that category can therefore claim to have been made prisoners of war and to be entitled to the benefits of the convention provided only that they have been captured by the enemy.
2. No definition is contained either in this Convention or in The Hague Convention 1907 of the acts, circumstances or conditions required to constitute such capture. Whether or not a state of capture exists is a question of fact in such case. The underlying consideration is whether the person captured is in the power and control of the capturing force. This is implicit in the statement in the Geneva Convention that prisoners of war are in the power of the hostile government but not of the individual or formations which captured them.
3. Clearly, if a body of troops surrenders, and this surrender is accepted and thereafter the troops are physically confined in a camp of whatever size, in which they are entirely dependent on the control and supervision of the opposing belligerent, a state of capture exists and the troops must be treated as prisoners of war.
4. It is not necessary that the area of confinement should be enclosed by any fence or other detaining obstacle.
5. On the other hand if there is a temporary armistice between opposing forces during which the troops of an army agree to remain under their own commander in a particular area during the armistice, but with the intention that at the conclusion of the armistice hostilities will be resumed,

they obviously do not come under the control of the opposing army and do not require a status of prisoners of war.

6. If, however, the armistice is likely to be indefinitely prolonged, and the surrendering troops, although remaining under their own commander are in fact under the control of the opposing army and depend for their normal maintenance upon arrangements made or permitted by the opposing army, then it is the opinion of this sub-commission that these surrendering troops are under the control of the opposing army and acquire prisoner of war status.

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

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