

ACC-Italy

10000/142/631

De
C

10000/142/631

Della Maddalena Giuseppe
(No date)

ACC

10000/142/631

10000/142/631

FOLDER, NO DATA, NO DATE
(1943 - 1947?) (MADDALENA)

4 083/95

DELLA MADDALENA GIUSEPPE

IN SAFE

AC/4083/95/L.

OPENED : 10 Oct 45

CLOSED : 3 Nov 45

SUBJECT : CASE OF SCHMIT GIULIA * SUMIT DANTE * DELLA MADDALENA GIUSEPPE *
DELLA MADDALENA TERESA * DELLA MADDALENA PIETRO * AMDERLINI ANTONIO
DELLA BALMA GIOVUE * DELLA BALMA ALBERTO * DELLA BALMA GAUDENZIO *
ALL FROM PIEDMONT REGION.

THIS FOLDER

2047

Declassified E.O. 12356 Section 3.3/800 by 725816

SUBJECT: CASE OF SCAMIT GIULIA * SCAMIT DANTE * DELLA MADDALENA GIUSEPPE *
DELLA MADDALENA TERESA * DELLA MADDALENA PIERO * ANDERLINI ANTONIO
DELLA PALMA GIOSE * DELLA PALMA ALBERO * DELLA PALMA CAUDENZIO *
ALL FROM FIE FONTE REGION.

2047-1113

THIS FOLDER
CONTAINS PAPERS

1940-1945

1945-1948

CATALOGUE 10000/142/631

10 : VP CA Sec.

1. Please see folio (LH).

2. Letter at folio 94 drafted for your consideration, and signature if you approve.

Legal Sub-Commission
3 November 45.

[Signature]
JOHN A. WADEN,
Colonel, Infantry,
Chief Legal Advisor.

3

CA Section, att. Colonel White

Please see folio 2B which states " Note also that though according to Art. 1 of D.L.L.N. 224 dated 10-8- 1944 the death penalty has been abolished in the Italian Penal Code this decree has not been implemented in occupied territory." The Court may impose the death sentence or a term of imprisonment not less than 21 years; however if there are mitigating circumstances, the term of imprisonment may be less than 21 years.

[Signature]
Colonel, Infantry,
Chief Legal Advisor

Legal Sub-Commission
25 Oct. 45

4

VP.

The RC desires trial in this case (murder of a Swiss custom guard in Swiss territory by an Italian) by an AMG. court. (The Swiss desire trial in Italy.)

The C.A. in Milan 1 prefers trial by an Italian Court. The most important reason for this appears to be shortage of personnel. There is also the question as to whether this trial can be completed before AMG comes to our hands. For your direction please

CAS
26 OCT. 1945

X600

5

C.S.O.

This case should be handed over to the Italian Judiciary with instructions or a request that they deal with it as quickly as possible.

21/X.

[Signature]
V.P.C.A.S.

Legal

For action as above

CAS
26 OCT. 1945

X600

[Signature]
25/1

- 1 -

To : Chief Commissioner
Via Vr 34 Sec.

1. Please see folio (1A) and enclosures; also folio (2A and 2B), which is a brief of the enclosures at folio (1A) prepared by our civilian attorneys.

2. This is a request from the Regional Officer for permission to try by a General Military Government Court certain Italian nationals now in Italian jails for the murder in Swiss territory of an Arthur Schindler, a Swiss customs guard.

3. Under the provisions of Article 9, Italian penal code, an Italian National who commits in foreign territory a crime for which Italian law prescribes the penalty of death or penal servitude for life or for a minimum period of not less than three (3) years, shall be punished under that law, provided he is in territory of the (Italian) State.

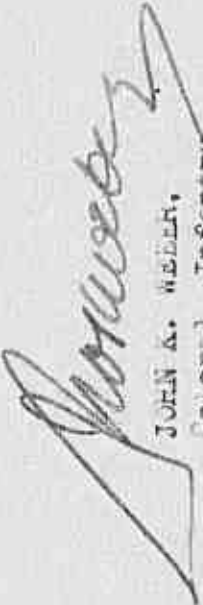
4. It would seem that the Swiss are reluctant to apply for extradition of the accused for two reasons:

- (a) The expense involved.
- (b) The Swiss law does not provide for capital punishment.

Because the Allied Military occupational law permits the application of the death penalty for offenses of this type, it is desired by the Swiss that the trial be had by a General Military Court under Proclamation I, Article VII. Apparently this type of offense has been much too common in the border territory.

My reaction is one of sympathy with the Swiss request, but I am content to stop with sympathy. If we turn back this territory in the near future, we would be put in the position of pulling Swiss chesnuts out of the fire after occupation has for practical purposes come to an end. Then there is the little matter of supplying the personnel for the Court, the prosecution and the defense. Need I stress the fact that legal personnel have now been re-deployed to the vanishing point? I recommend that trial be had by the Italian Courts.

Legal Sub-Commission
25 October 1945.


JOHN A. WEBER,
Colonel, Infantry,
Chief Legal Advisor.

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Legal Sub-Commission
25 October 1945.

John A. Walsh
JOHN A. WALSH,
Colonel, Infantry,
Chief Legal Advisor.

Legal

Can this man be sentenced to death if tried under

Italian law - If not what is the maximum penalty

CAF
23 OCT 1945
X 600

HEADQUARTERS ARMY COMMISSION
AND 37A
CHIEF OF COMMISSION

(6A)

AS/AFG/25/L.

JL/cu.
3 November 1945.

SUBJECT : Trial for murder of Miss Frontier Guard.

TO : Regional Commissioner (for Regional Legal Officer),
Pineapple Region.

1. Refer to the enclosed AFM letter G-3: 000.5 of 1 Nov. 45.
2. May this be please be furnished the result of the trial
in the murder of Miss Frontier Guard, as soon as they become available.

By command of Rear Admiral Stone

1 Incl.

JOHN A. BISH,
Colonel, Infantry,
Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION
CIVIL AFFAIRS SECTION
1945

(5A)

AG/4083/93/L.

JL/rm.
3 November 1945.

SUBJECT : Murder of SAULIAN Arthur.

TO : AFHQ - 3-5.

1. Reference your letter C-5:000.5 of 1 November 45.
2. The trial of the accused in the murder of SAULIAN Arthur has been passed to the Italian Tribunal for trial.
3. In view of your interest this HQ has requested the regional legal officer at Florence Region to report the results of the trial. As soon as they become available the Courts decision will be forwarded to your office.
4. Enclosed herewith are the documents received with your letter.

For the Chief Commissioner:

L. Carr, Brig.,
VF CA Sec.

4083/93

LEGAL

1129

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

1 November 1945

G-5: 000.5

SUBJECT: Trial for Murder of Swiss Frontier Guard.
TO : Headquarters, Allied Commission, APO 394.

1. Information has been received at this Headquarters that a number of persons were arrested in the Province of Novara in September 1945 in connection with the murder of Arthur Sauter a Swiss Frontier Guard. It is thought that the accused persons are now held at Pallanza, and are awaiting trial.

2. It is requested that this Headquarters be advised of the results of the trial.

A. L. Hamblen
A. L. HAMBLÉN,
Brigadier General, GSC,
Assistant Chief of Staff, G-5.

Copy to: G-2

2 NOV 1945

REG. 512	
CLO	
DCLO	
Chief Counsel	
CIO	
Adm. Section	
CL RKS	
3 NOV 1945	

HEADQUARTERS ALLIED COMMISSION
APO 294
LEGAL SUB-COMMISSION

317
JL/230

27 Oct, 1945

AG/4083/95/L

SUBJECT : Murder of Arthur SAUTER
TO : Regional Commissioner (att. Regional Legal
Officer) Piemonte Region

1. Reference your letter FR/LE of 19 Oct. 45.
2. After due consideration the director of Civil Affairs section instructs that the accused in re murder of Arthur SAUTER be tried by Italian Authorities.
3. Please instruct the Italian Judiciary that the trial of the accused persons should proceed with the greatest possible speed.
4. Returned herewith are the following :
 - (a) Torino (Compagnia di Verbania) GCHQ letter No. 484/4 di prot. Div. 3^a Verbania 5/10/45. subject " Decisione dell'appuntato della Guardia di Frontiera svizzera "
 - (b) " Dossier Homicide di L'Agent Suisse " App GCHQ Fmt. SAUTER ARTHUR des poste de Binn (Suisse) Par les contrebandiers Italiens et Thalgutacher (Suisse) 12 14.9.1945 " On the above appears the following " Douanes Suisses. Corps des Gardes-Frontiers du ve Arrondissement. "
5. Please acknowledge receipt.

By command of Rear Admiral STONE

John K. Reber
JOHN K. REBER,
Colonel, Infantry,
Chief Legal Advisor

Encl. As listed above

(2A)

SUBJECT : Murder of Arthur Sauter.

This is a case which relates to a murder of a Swiss custom-guard by Italian contrabandiers, in Swiss territory.

The accused are at present held in the jail at Pallanza (Italy).

The a/m, when he was out-shooting, saw some contrabandiers whom he followed with the aim of arresting them. It seems that the contrabandiers, become aware of the pursuit, caught him in a trap and killed him by a shot of an Italian Military gun.

On the other hand the murderer claims that he fired a shot at the a/m only because the said pointed a revolver at one of his companions.

Another contrabandier accomplished the killing with a stone and stole some objects of the a/m.

After investigations the band of contrabandiers has been arrested. Statements of persons arrested (who confessed to the murder) are contained in the file.

Following the favorable result of the police investigations the Swiss Police Officer wrote a letter to the President of the proper Tribunal reporting the facts.

24.11

In this letter it is stated that 3 others crimes have been committed within the " Canton du Tessin ", and that the proper frontier Allied Authorities wish to make an example.

The Swiss Police Officer asked therefore the President of the Tribunal to request the proper Allied Authorities for necessary trial.

Reasons of such request follow :

They do not like request for extradition as, according to Swiss Penal Code, (art.336 § b), death penalty cannot be imposed. They wish however, the murderer be executed.

They want also to avoid the great expenses which are necessary for extradition procedure.

- 2 -

(28)

I feel bound to bring to your attention that a trial by an Italian or an A.M.G. Court is, according to art. 9 of the It. Penal Code, completely lawful.

according To
Note also that though art. 1 of D.L.L.N. 224, dated 10 - 8 - 1944 the death penalty has been abolished in ~~the~~ It. Pen. Code this decree has not been implemented *in occupied*

territory

HEADQUARTERS
PIEMONTE REGION
ALLIED MILITARY GOVERNMENT
APO 394

10 October 1945.

PR/LE/

SUBJECT: Murder on Swiss Frontier.

TO : H.Q. A.C. for Legal Sub-Commission.

1. Herewith letter of Commandant CC.RR. Verbania dated 5th inst. and dossier prepared by the Swiss authorities relative to the murder of Arthur SAUTER.

2. From the copy letters in the dossier it appears doubtful if an application for extradition will be made at all, and still more unlikely that it would be granted. It is recommended that it should not be granted.

3. Did circumstances permit it would be recommended that the case be tried under Italian Law by an A.M.G. Court as the probably rather more rapid procedure might have a good effect in a crime of which the type is all too common just now.

4. Will you please instruct whether the papers may be handed to the Italian Judiciary with instructions to proceed as quickly as possible.

For the Regional Commissioner.

ADAM Tolm Major
D.D. Mc Colm
Major, R.A.
Regional Legal Officer.

DDM/AR.

Encl.: a/m letter.
dossier.

2059

