

ACC

10000/142/680
(VOL. 1)

EXTRAORDINARY C
APR. - JUN. 1945

10000/142/680
(VOL. 1)

EXTRAORDINARY COURT OF ASSIZE (PEOPLES' COURTS)
APR. - JUN. 1945

READY FOR ARCHIVES
FILE CLOSED 18 June 1945

152

4092 / 19
file

95A

REGIONAL COMMISSION (WITH REGIONAL LEGAL OFFICE) VERMONT REGION

199

20

1967

RECEIVED BY
 SUBJECT
 FROM (SEE PD X) CARLO DOMIZIANTO REFERRED TO DEATH BY SPECIAL COURT OF ASSIZES OF
 157
PARIS TO REGIONAL COMMISSION WITH ATTENTION REGIONAL LEGAL OFFICE PARIS
VERMONT REGION FROM HEAD QUARTERS ALLIED COMMISSION WITH AGED PARIS
 HAS TWO PD UNITED STATES DEPARTMENT JUSTICE THAT SERVICE IS VERMONTIAN
 CERTAIN AND IS THE IMMEDIATE JURISDICTION OF REGIONAL IF THE SUBJECT CARRIED OUT PD
 PLEASE ADVISE THE COMMISSION

LEGAL SUB-COMMISSION

207

GCA

HEADQUARTERS ALLIED COMMISSION
APC 394
LEGAL SUB-COMMISSION

GCH/ps.
19 Jun 1945.

File
AC/4092/1/L

SUBJECT : Recourse to Court of Cassation - Milan.

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

1. The Procuratore Generale Venezia has requested the Regional Legal Officer to inform Your Excellency that the following death sentences

PEPI Umberto
CASIERO Ernani
ZANI Nelfro

pronounced by the Extraordinary Court of Assizes of Venezia have been affirmed by the Court of Cassation, Milan Section.

2. No petition for mercy has been so far forwarded to this Ho.

G. G. HANNAFORD,
Lt. Colonel,
Officer i/c Italian Branch,
for Chief Legal Advisor. 150

THIS COPY IS DURING
INFORMATION

4092

93A
Legal

INCOMING MESSAGE

HEADQUARTERS ALLIED COMMISSION

Ref No 1244

TOO: JUNE 191100B

Message Centre No: E/5724
Date Time Rec'd: JUNE 191402B
Precedence: ROUTINE

FROM: LOMBARDIA REGION LEGAL DIV FOR POLETTI SIGNED DICKIE
TO: HQ ALCOM ACLEG

RESTRICTED

96A

1. Ref your letter AC/1092/1/L dated 15 June paragraph 4(A) sentence of death imposed on BUFFARINI GUIDI GUIDO on 28 May was affirmed by Cassation on 15 June. Appeal for clemency now being processed.
2. Communication from Procuratore Generale follows by today's post.

Dist

Action - Legal SC
 Info - Chief Commissioner
 CA Section
 File 2
 Float

149

LEGAL DIVISION
TO
INFO
Chief Counsel
Dist
File
Float
JUN 19 1945

RESTRICTED

4092



kyad
92A

HEADQUARTERS EMILIA REGION
ALLIED MILITARY GOVERNMENT
APO 394

REF: RIX/LE/704/156

WHL/dsh.
18 June 1945.

SUBJECT: DLL No. 142 (Payment of Avvocati).

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

1. Reference your AC/4092/1/L, 9 June 1945, the provision for payment of above on basis of Grade 5 was based on the understanding (apparently erroneous) that Avvocati were to be treated as Procuratori del Regno rather than sostituti.

2. Inasmuch as the compensation allowed (even on the basis of Grade 5) is quite small and since the order has already been issued on that basis in the Region, it will be appreciated if the matter could be reconsidered and the present order allowed to stand.

3. In any event, the misunderstanding is regretted.

For the Regional Commissioner:

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W. H. Levit

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

LEGAL SUB-COMMISSION	
CIO	<i>mail</i> ←
DCIO	
Chief Counsel	
CL	
GLS	✓ ←
19 JUN 1945	

*file**GIA*HEADQUARTERS ALLIED COMMISSION
APO 334
LEGAL SUB-COMMISSION

AC/4092/1/L.

/pa.
19 Jun 45.

SUBJECT : Extraordinary Courts of Assizes.

TO : Regional Commissioner (Attn: R.L.O.)
ROMBARDIA Region.

1. The Basile incident is much regretted. It was believed by the undersigned, who made the request at the time that all arrangements had been made by PS to have him transferred to Rome to face his trial before the High Court. (letter LEG/5038 of 27 May and AC/4092/1/L of 30 May refer).
2. If Basile's has to be retried, it will have to be before the High Court. It is agreed that though the form of justice which can be counted upon in Milan has been to date above any criticism, there may be a different story to tell very soon.
3. It is expected that the undersigned will be in Milan in the course of the next few days. It may be then advisable to go through the list of pending cases and recommend to the High Commissioner that these likely to create disturbances if heard in Milan, should be transferred to the High Court.
4. The question of the re transfer of the Cassation to Rome should be discussed at the meeting of 30 June.
5. The presence of Torliatti as Minister of Justice and Nenni as High Commissioner for Fascist crimes should relieve the present tension in the North.

By command of Rear Admiral STONE/

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

4092/16
File

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
APO 394
Legal Division

LEG. SUB-COMMISSION	90A
TO	
FROM	
Chief Counsel	/
CLERK	/
16 June 1945	

Ref.: LEG/5048

SUBJECT : Extraordinary Courts of Assize

TO : H.Q. Allied Commission
Legal Sub-Commission

1. The Milan Court tried 14 cases between the 1st and 13th June. Three accused were acquitted for lack of proof, while the remaining eleven received sentences of imprisonment ranging from 10 to 26 years. No untoward incidents were reported.

2. Yesterday, however, two important cases were before the Court, which have roused considerable public feeling. In the first, Bruno Biagioni (ex-Federale of Apuania, commander of a Brigata Nera, etc.) was convicted and sentenced to death, while in the second case a sentence of 20 years imprisonment was imposed on Carlo Emanuele Basile (ex-chief of the Province of Genoa) despite a demand for the death sentence of the P.M. vociferously supported by the crowd. The Court announced that the reduction in penalty was granted under Art. 26 of the C.P.M. di Guerra on account of the accused's record in the last War.

3. The latter decision was very badly received by the crowd who demonstrated outside the Palazzo di Giustizia and sent delegations to the Prefect last night. This morning truck loads of (well-organized) demonstrators have passed this HQ en route for the centre of the City, there to demand according to their banners, Basile's head, Popular Courts, Justice and so forth. Appropriate preparations have been made

by the/

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by the Police authorities, and a further report will be forwarded in due course.

For the Regional Commissioner:

John Brathwaite

J. B. BRATHWAITE
 W/Comdr., M.A.P.
 Regional Legal Officer.

av/

- B.S. (i) The demonstration lasted about one hour, but was finally dispersed as a result of a speech by Avv. Beeson who promised the crowd that Justice would be served.
- (ii) S.E. Cartwright kept the President of the Special Court locked up in a cupboard during this scene, while he himself paced the corridor to face the mob if required.
- (iii) S.E. Cartwright is beginning to wonder if the Court of Cassation could not administer more even justice from Rome.

John Brathwaite

4092/1

file

Piemonte

89A

13 June 1945.

PT/LG/427

SUBJECT: Extraordinary Courts of Assize, Piemonte.

TO : Regional Legal Officer, Lombardia Region.
(Attn. O i/c. Italian Branch).
Lt. Col. Hannaford.

1. The following sentences have been pronounced by subject Courts:

I. Special Court of Assize, Torino, pronounced on 3 June 1945 against:

(a) BONSIORANI Carlo, accused of treason: death and confiscation of all property. 45

(b) ARONICA Grazia (woman), accused of collaboration: 6 months stay. sent.

II. Special Court of Assize, Aosta, pronounced on 4 June 1945 against:

(a) TOGNONI Raffaele, ex-fascist secretary and Brigata Nera Commander: 30 years and confiscation.

(b) CIANI Aldo, Deputy of TOGNONI: 20 years and confiscation.

(c) FERRERO Mario, Head of Staff of Brigata Nera: 10 years and confiscation.

III. Special Court of Assize, Asti, pronounced on 4 June 1945 against:

(a) OSENA Bruno, accused of assistance to the enemy: 30 years.

(b) BOPPIO Sante, accused of assistance to the enemy by presiding an Extraordinary Fascist Court, etc.: death.

- 2 -

IV. Special Court of Anaise, Asti, pronounced on 5 June 1945 against:

(a) ANTONI Marco, accused of homicide, looting, etc.:
Death.

2. This report is for your information.

For the Regional Commissioner.

David J. Lencer
Lt. Col., Ord.
Regional Legal Officer.

KJW/AL

Copy to Mr. A.D., Legal sub-Commission, for info. Italian Branch.

LEGAL SUB-COMMISSION	
CLO	
DCLO	
Chief Counsel	
CIO	
Italian Section	
CF 855	
15 JUN 1945	

File

SSA

COMMISSIONERS ARMED COAST GUARD
AFD 12A
LEGAL SUB-COMMISSION

3/4892/1/L.

16 June 1945.

SUBJECT : Extraordinary Court of Assize - Salaries of Avvocati acting as J.P.
TO : Head and Commissioner (Attn: Regional Legal Officer), VENEZIA Region.

Your RAIL/12/104/6/65 of 13 June refers.

1. It has been decided that all lawyers volunteering for the P.S. of the Extraordinary Courts of Assizes will receive a salary equal to the emoluments paid to officials holding grade 6 (salary and allowances).
2. Please inform all concerned.

By command of Rear Admiral SPICER:

C. S. HANCOCK,
Lt. Col.,
Officer in Charge Italian Branch,
for Chief Legal Advisor.

143

Handwritten: 4409871

HGW/lp *(87A)*

HEADQUARTERS
VENEZIE REGION
Allied Military Government
APO 394

13 June 1945.

TO : Chief Legal Adviser, Legal Sub-Commission, HQ., AC.
SUBJECT: Extraordinary Court of Assize.
FILE No: RXII/LE/Reg/C/03.1

1. May I be informed, please, whether the Avvocati appointed to the Ufficio del P.M. in connection with the Extraordinary Courts of Assize, will receive any remuneration in respect of their services, and if so on what scale?
2. Many of the Avvocati appointed are serving with reluctance, and at the sacrifice of lucrative fees which they might have earned by appearing for the Defence.
3. You have informed me verbally that these officials will receive some remuneration, but an official announcement to this effect is still awaited. If I could be authorised to announce that these Avvocati will be paid a reasonable remuneration, it would make for more willing service and probably greater efficiency.

H. G. Wilmer

142

Colonel,
Regional Legal Officer,
AMG., Venezia Region.

LEGAL SUB-COMMISSION
CLG
DCG
...
...
...

See 71A, 64A, 62A, 25A

16 JUN 1945

86A

HEAD-QUARTERS ALLIED COMMISSION
APO 394
HEAD-QUARTERS COMMISSION

/rlp.
15 June 1945.

AC/1092/A.

SUBJECT : Extraordinary Courts of Assizes - Appeal for mercy to the Minister of Justice after death sentences have become final.

TO : Regional Commissioners (Attn. Regional Legal Officers),
EMILIA, LIGURIA, PIEMONTE, MARCHE and VENETIA Regions.

1. Under Article 580 of the Italian Code of Penal Procedure, Procurators General must communicate immediately to the Minister of Justice the notice that a death sentence has become final.

2. The Minister may then request that all documents pertaining to the case be forwarded to him forthwith and may decide to recommend to the Sovereign that a measure of clemency be taken in favour of the sentenced person. This he may do whether or not such person has lodged an appeal for pardon.

3. The function of the Minister of Justice is not therefore administrative but judicial. As there is nothing to the contrary in the text of Art. 2, it is therefore not proposed to depart from the usual Italian practice in cases tried by the Extraordinary Court of Assizes.

4. The following procedure will be followed in all death sentence cases made final by the Section of Court of Cassation of Milan.

a. The procurators general of the Court of Cassation should request RLA to notify the Minister of Justice by telegram every time a death sentence has been affirmed by the Court.

b. The Minister may take two courses:

(1) He may order the sentence to be carried out. In that case the Procuratore Generale is responsible for making the necessary arrangements for the execution as soon as he is informed of the Minister's decision.

(2) He may request communication of the documents of the case. These should be forwarded immediately by the Procuratore Generale through RLA channels.

c. If the Minister decides that there exist in his opinion, grounds justifying a measure of clemency, he will address to His Allied Commission, Legal Sub-Commission a recommendation to that effect.

d. If the Legal Sub-Commission accepts the Minister's point of view, a pardon will be signed by CLA and forwarded to RLO for communication to and necessary action by the Procureurs Generals.

e. If CLA disagrees with the Minister, he will request RLO to notify the Procureurs Generals accordingly. The latter will then carry out his normal duties and arrange for the execution to take place.

5. The necessity of avoiding delays in the transmission of documents is again stressed. All channels of communication will be used throughout the procedure. RLO should therefore see that the Procureurs Generals lose no time in informing him of the decision of the Court and in forwarding the documents relating to the case, whenever these are requested by the Minister in accordance with the procedure laid down in the preceding paragraphs.

By command of Rear Admiral STONE:

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

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4092/1 ✓

85A

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
APO 394
Legal Division

Ref.: LEG/5027

13 June 1945

SUBJECT : Jurisdiction of Extraordinary Courts of Assize
over Military personnel.

TO : HQ Allied Commission - Legal Sub-Commission

1. Your letter Ref. AC/4092/1/L dated 9 June 1945 with
copy of the Directive dated 4th June 1945 attached is
acknowledged.

2. No copy of this Directive appears to have reached
this HQ previously, but the contents had been communicated
direct to the President of the Special Section of Cassation
by H.E. Boeri.

For the Regional Commissioner:

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H.M. Dickie
H.M. DICKIE
W/Comdr., R.A.F.
Regional Legal Officer.

LEG	SUB-COMMISSION
CLO	
DCLO	
Chief Counsel	
CJO	
Itallon Section	<input checked="" type="checkbox"/>
CL RKS	

ar/ →

15 JUN 1945

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

WED/mt.
14 June 1945.

AC/1092/1/1.

SUBJECT : Special Courts of Assise.

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

1. Receipt is acknowledged of your ltr/ltr/05.5 of 9 June 1945.
2. A separate directive has already been sent to you on prisoners of war.
3. It is difficult to deal with your comments on the Special Court of Assise in view of the general nature of the criticisms which you make.
4. I agree that to some extent ~~the~~ ~~MC~~ is responsible for ensuring that the Italian Courts administer law in accordance with recognized principles of justice. In this case however the appeal ~~to the~~ Court of Cassation should provide the necessary safeguard, at least on the point of jurisdiction. I agree that the sentences imposed are severe; except in the case of death sentences, however, in which there is a review by the Minister of Justice in addition to an examination by the Court of Cassation, it is exceedingly unlikely that they will ~~be~~ be fully enforced.
5. As to the basic proposition that "war crimes" should not be tried in these courts, I find myself unable to concur. The term "war crimes" is normally used to refer to international crimes committed in breach of the rules of war. It is nonetheless a civil crime for an Italian Fascist to murder an Italian patriot because he does so during a war or because he tortures him in the process.
6. Furthermore it could I think be argued with some force that many of the fascist atrocities, e.g., reprisals, were committed with the express purpose of assisting the Germans and are therefore clearly within the scope of the decree.
7. Nevertheless if any specific case arises in which you consider that ~~the~~ ~~MC~~ should interfere will you please notify this Sub-Commission with full particulars, so that we can discuss the question with the Ministry of Justice.

By command of Rear Admiral STONE:

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

83A

HEADQUARTERS
LIGURIA REGION
ALLIED MILITARY GOVERNMENT
APO 394

WGE/sf
9 June 1945

1945/05.5

SUBJECT: Special Courts of Assizes.

TO: Headquarters, Allied Commission - APO 394

(Attn: Legal Sub-Commissioner)

1. Your attention is invited to the fact that a number of cases have been tried before these courts in which the death penalty has been imposed. In all cases so far it is noticeable that the sentences are extremely heavy.

2. It is not possible to state with certainty the facts pertaining to each case as the records are before the Court of Appeal but it can, it is believed, be accepted as a fact that these courts are in effect trying persons accused of atrocities and what is loosely termed war crimes, providing they can find the prisoner has the character of a fascist or a collaborator.

3. This HQ. appreciates that while these Courts are constituted under an Italian Government decree, namely D.M. 142 and are administered by Italian personnel it is nevertheless felt that this decree was implemented by AMG and such Courts are operating with our approval and indeed to an extent under our supervision there is a responsibility resting on AMG.

4. This HQ. takes the view that this Court was constituted solely to deal with the political offences of Fascism and Collaborationism as such and empowered to punish for these offences. The decree does not expressly state, nor, it is submitted, can a reasonable inference be drawn that this Court has jurisdiction to try atrocity or war crimes. This view is supported when it is realized that such crimes last mentioned are punishable under the Italian Military and Civil penal codes. Further may it be stated that a similar view is held by a number of Italian magistrates and Public officials. It naturally follows that there is grave concern as to whether this practice should be continued, particularly when it is realized that a certain number who could be classified as Prisoners of War will be for trial before this court, and when such decisions are dispassionately viewed in the future.

5. It would be appreciated if this HQ. could be reassured as to the Constitutionality of this Court to deal in effect with atrocity or war crimes and also whether, where a prisoner who is a prisoner of war should be proceeded against.

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5. It would be appreciated if this HQ. could be reassured as to the Constitutionality of this Court to deal in effect with atrocity or war crimes and also whether, where a prisoner who qualifies as a prisoner of war should be proceeded against.

LEGAL SUBCOMMISSION

→ DCLO

DCLO

Chief Counsel

CJO

Italian Section

CL RKS

11 2 JUN 1945

For the Regional Commissioner:

W.G. Elder

W.G. ELDER,

Lt. Col., Cdn. Prov. C.,

Regional Legal Officer.

✓
5092/10

FJA/pb

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HEADQUARTERS
VENEZIA REGION
Allied Military Government
APO 394

10 JUNE 1945

TO : R. C., Lombardia Region (for R.L.O.- Italian Branch).

SUBJECT: Court of Cassation.

FILE NO: RMII/LE/Reg/C/03.2.

38A

1. Reference your letter L/5036 of 28 May 1945.
2. The Primo Presidente of the Court of Appeal of Venice and the Procuratore Generale of said Court will be glad to come to Milan and attend the conference you suggest.
3. We will assist ^{the} said officials with making the necessary travel arrangements.

W. G. Dates
for *W. G. Dates*, Major
Regional Legal Officer, 136
AMG, Venezia Region.

Copy to:
Legal Sub-Commission, HQ, AMG.

LEGAL SUB-COMMISSION	
CEO	/
DCLO	/
Chief Counsel	/
CID	/
Italian Section	/
CL RKS	/
14 JUN 1945	

81A

4/1/45

Office of the
Military Government

Office of the Military Government

4/1/45

11 June 1945

TO : Legal Sub-Division, HQ, AG, (for Italian Branch),
Temporarily in Milan.

FROM: Extraordinary Courts of Assizes.

RE: *SSA*
MIL/AG/leg/4/1/45.

1. Reference your letter 409/5027 of 4 June 1945.

2. Extraordinary Courts of Assizes have been fully set up and functioning in the Provinces of BERGAMO, PAVIA, COMO, MILANO, CREMONA, MONZA, VARESE, VIGEVANO, VERONA, VICENZA and TREVISO.

3. Leaving only the Province of Bolzano to be set up. This province has had certain problems which have delayed the matter but the Court and Public Prosecutor's office will be named this week.

4. First trials have been held as follows:
VERONA - 1 June 45; VENEZIA, 2 June; TRENTO, 7 June; UDINE, 8 June; TAVIERO, 8 June.

The province of BOLZANO will start on 14 June; *Adova* on 16 June; BERGAMO on 23 June and VICENZA will have its first trial this week the exact date is not known by this headquarters at this time.

5. There have been three appeals from death sentences imposed by the Venezia Court and it is expected that one will be taken from the death sentence imposed by the Treviso Court. We do not know of any appeals pending or expected at this date.

6. We have no knowledge of any regularly convened Italian Military Courts operating in this region.

WGR Oates Major
for *W. G. Williams*, Colonel,
Regional Legal Officer,
AG, Venezia region.

SUBJECT: Administrative Courts of Appeals

SSA

Reference your letter of 4 June 1949.

1. Administrative Courts of Appeals have been fully set up and functioning in the provinces of Emilia, Marche, Molise, Puglia, Umbria, Valle d'Aosta, Veneto, Friuli and Liguria.
2. The Province of Bolzano to be set up. This province has had certain problems which have delayed the matter but the Court and Public Prosecutor's office will be housed this week.
3. First trials have been held as follows:
 Vercelli - 1 June; Sassari, 4 June; Turin, 7 June; Milan, 8 June; Livorno, 8 June.
 The province of Sicily will start on 14 June; ¹⁵BoVA on 16 June; Palermo on 22 June and Vicenza will have its first trial this week the exact date is not known by this headquarters at this time.
4. There have been three appeals from death sentences imposed by the Venetia Court and it is expected that one will be taken from the death sentence imposed by the Padova Court. We do not know of any other appeals pending or expected at this date.
5. We have no knowledge of any regularly convened Italian Military Courts operating in this region.

for *WCR Oster* Major
 Lt. G. Williams, Colonel,
 Regional Legal Officer,
 Tab, Venetia Region.

Copy to:
 Legal Sub-Commission, HQ, AG, Rome.
 Lt. C. Lombardi Region (for R.L.G.).

LEGAL SUB-COMMISSION

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13 JUN 1949

4092/1

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HEADQUARTERS EMILIA REGION
ALLIED MILITARY GOVERNMENT
APO 394

WHL/dsh.
10 June 1945.

REF: RIX/LE/704.1/56

SUBJECT: Appeals from Special Courts of Assize.

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

~~78A~~ 78A

1. Reference letter of 4 June 1945 (Leg. 5038) from RLO Lombardia Region to your Headquarters, copy to this Headquarters, this Headquarters had already instructed PLOs to expedite the forwarding of appeals to the Special Section of the Court of Cassation, by using AMG Channels.

For the Regional Commissioner:

WHL

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

Copy to:

RLO Lombardia Region.

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LEG. C. 5038	
LO	
PLC	
Ref Counsel	
Section	*
10 Jun 1945	

79A

HEADQUARTERS MILITARY COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4092/V/L.

/mt.
12 June 1945.

SUBJECT : Appeal (ricorso) from the Extraordinary Court of Assizes to Special Section of Court of Cassation, Milan.

TO : Regional Commissioners (i.e.: Regional Legal Officers), EMILIA, LIGURIA, PIEMONTE, LOMBARDIA, VENETIA, and VENEZIA GIULIA Regions.

1. It will be appreciated that under D.L. No. 142:

a. The time limit for lodging the appeal is, in the case of the accused 3 days, and in the case of the Pubblico Ministero 5 days from the day on which the copy of sentence is deposited with the Cancelleria of the Extraordinary Court of Assizes.

b. The presiding judge of the Assize Court must deposit the "sentenza" with the Cancellieri of the Court within 5 days of the pronouncement in Court (Art. 15, D.L. 142). The time limit for the completion of the appeal by filing the reasons does not begin to run until this deposit is made (Art. 17, D.L. 142).

c. Even if appeal is entered by the accused or the P.M., the Court of Cassation cannot proceed to judgment until receipt by that Court of the record.

2. Unless the "sentenze" are deposited within the time specified above and unless all other time limits are strictly observed and the record and appeals forwarded to the Court of Cassation as promptly as possible inevitable delay will occur which will defeat the object of the decree.

3. EIOs will therefore bring to the notice of the extraordinary Courts and the Cancellieri the necessity for strict compliance with these limits; it should be stressed that appeals must be forwarded by the Cancellieri of the Court of Assizes to Cancelleria of the Court of Cassation within 24 hours of receipt and must not be held back in order to transmit a number of cases at the same time. ASC channels of Communications should be made available.

4. This directive is issued for distribution to EIOs.

By command of Rear Admiral STONE:

[Signature]
W. E. BIRKEN,
Colonel,
Chief Legal Advisor.

HEADQUARTERS
 ALLIED MILITARY GOVERNMENT
 LOMBARDIA REGION
 APO 394
 Legal Division

Ref. : LEG/5038

4 June 1945

SUBJECT : Appeal from Extrazordinary Court of Assizes to Section
 of Court of Cassation of Milan.

TO : Legal Sub-Commission

1. Further to AC letter 4092/1/L of 31 May 1945, it is requested that all P.L.Os be instructed to supervise the dispatch of appeals to the Section of Cassation in Milan from Provincial Courts of Assizes in order that ~~lets~~ may be expedited as much as possible.
2. To date the Section of Cassation has received only three appeals from the Pubblico Ministero of Milan against sentences which were considered either too lenient under the provision of ~~the~~ the Decree or technically incorrect.
3. The time limits for the Court of Cassation to render its decisions is 28 days under normal procedure, which is applicable in all cases other than a death sentence, and ten days when the death penalty has been pronounced.
4. In Milan appeals filed by persons sentenced to death on 28 and 30 May will only reach the Court of Cassation on or after 8 June. The matter has been taken up with P.G. who explained that shortage of personnel and other difficulties had made it impossible for the sentence to be deposited with the Registrar immediately. As you are aware under Article 17 of DIL 142 the time limit of three days for appeals to the Court of Cassation runs from the date the sentence is deposited with the Registrar.
5. It will be necessary to check attempts to defeat the provisions of the Law through the Clerk of the Court or his staff withholding documents for a considerable time. Furthermore appeals must be prevented from accumulating and reaching the Court of Cassation all together.

6. It is/

6. It is therefore suggested that P.L.O. be requested to instruct the clerks of the Court and Pubblico Ministero to deposit all sentences without any undue delay. Italian personnel not complying with these instructions should be reported at once.

7. P.L.Os. in cities other than Milan should also see that appeals deposited with the Registrar are forwarded to the Court of Cassation within twenty four hours of such deposit.

8. AMG should provide all necessary facilities for despatching such correspondence from the Provincial Court of Assizes to the Court of Cassation in Milan.

For the Regional Commissioner:

S. S. Hampton *17/6/62*

/ S. S. DICKIE
W/Comdr., R.A.F.
Regional Legal Officer.

Copies to Emilia, Piemonte, Liguria and Veneto.

4092/1 ✓ file

Reggio/le
77A

HEADQUARTERS EMILIA REGION
ALLIED MILITARY GOVERNMENT
APO 394

REF: RIX/LE/704-RE/30

WHL/dsh.
8 June 1945.

SUBJECT: Special Court of Assize (Reggio Emilia).

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

1. This is to advise you that the above Court held its first session in Reggio Emilia Province on 6 June 1945. Five persons were sentenced to death and one person to 8 years and 4 months of reclusione, all on charges of collaborating with the Germans.

For the Regional Commissioner:

HEADQUARTERS
10 JUN 1945
A. C.

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

Copy to:

Regional Commissioner
PLO Reggio Emilia

131

LEGAL SUB-COMMISSION	
→ CLO	<i>WHL</i>
DCLO	
Chief Counsel	
CIP	
→ []	<i>[Signature]</i>

4092/1

76A

HEADQUARTERS
LIGURIA REGION
ALLIED MILITARY GOVERNMENT
APO 394

WGE/sf
7 June 1945

Hig/Leg/05.5

SUBJECT : Extraordinary Courts of Assizes at Savona.

TO : Lt. Col. G.G. HANFORD, Officer i/c Italian
Courts - Legal Sub-Commission & Legal Division,
Lombardia Region.

1. Reference your Leg/5080 letter of 2 June 1945 received
this Headquarters 6 June 1945.

2. As a result of telephone conversation with P.L.O.
Savona we today learn from him that the Public Ministero of the
Special Court at Savona personally conveyed the records of Appeals
to Milano. On arrival he could find no one connected with the
Court of Cassazione and was forced to leave the records with the
Secretary of the Special Court of Assize in Milano who undertook
to transmit them to the Court of Cassazione along with appeals
from the Special court of Assize Milano.

3. They were obviously delivered for the Public Ministero
of Savona has since received a formal receipt covering all
documents from the Court of Cassazione and modification of the date
fixed for the hearing which, I believe, he said was June 13.

TO	<input checked="" type="checkbox"/>
INFO	<input type="checkbox"/>
Dist. Council	<input type="checkbox"/>
TO	<input type="checkbox"/>
Legal Section	<input type="checkbox"/>
Copy for Legal Sub-Commission, HQ., A.C.	<input type="checkbox"/>
PLD, SAVONA	<input type="checkbox"/>

For the Regional Commissioner:

W.G. Elmer
W.G. ELMER,
Lt. Col., Com. Prov. C.,
Regional Legal Officer.

10 JUN 1945

QUARTERS MILITARY COMMISSION
APO 394
LEGAL SUB-COMMISSION

8 June 1945.

75A

12/1032/1/L

SUBJECT : Extraordinary Courts of Assize in Florence and Ancona.
TO : H. E. The Minister of Pardon and Justice.

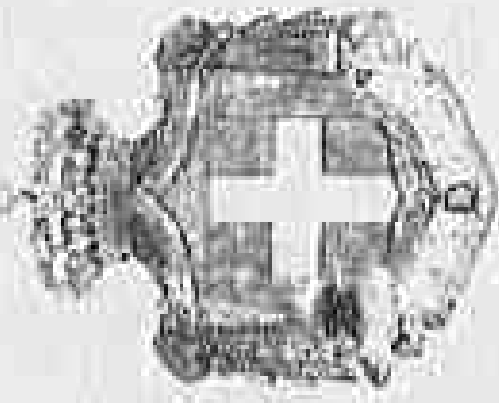
With reference to Prot. 14609 of 31 May 45 this is to inform Your
Excellency that this Commission has no objection to constituting the
above mentioned courts in Florence and Ancona Province.

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

627

Mod 1348 M.G

74A



403/1/2/2
Ministero di Giustizia

DIREZIONE GENERALE AFFARI PENALI

Uff. III° A.P.
Prot...14609.....

Roma, li 3/ maggio 1945

ALLA COMMISSIONE ALLEATA
Sottocommissione legale

R O M A

e per conoscenza

ALLA PRESIDENZA DEL CONSIGLIO DEI MINISTRI

R O M A

OGGETTO: Corti di Assise Straordinarie - Istituzione nelle Marche e in Toscana.

Com'è noto a codesta On. Commissione, con D.L.I. 22 aprile 1945 n. 142, è stata disposta la istituzione di Corti Straordinarie di Assise nei territori italiani che vengano a suo tempo indicati con decreti Luogotenenziali, su proposta del Presidente del Consiglio dei Ministri.

Le dette Corti sono state istituite e hanno già iniziato il loro funzionamento nel distretto della Corte di Appello di Bologna; ed ora vengono rivolte a questo Ministero premure perchè, anche nel territorio delle Province di Firenze e di Ancona, vengano adottate analoghi provvedimenti.

Tanto si comunica a codesta On. Commissione con preghiera di voler esprimere il suo avviso al riguardo.

CIO

Uff. III° A.P.
Prot... 14604.....

Roma, li 3/ maggio 1945

ALIA COMMISSIONE ALLEATA
Sottocommissione Legale

ROMA

e per conoscenza

ALLA PRESIDENZA DEL CONSIGLIO DEI MINISTRI

ROMA

OGGETTO: Corti di Assise Straordinarie - Istituzione ^{del} nelle Marche e in Toscana.

Com'è noto a codesta On. Commissione, con D.I.L. 22 aprile 1945 n. 142, è stata disposta la istituzione di Corti Straordinarie di Assise nei territori italiani che vengono a suo tempo indicati con decreti Luogotenenziali, su proposta del Presidente del Consiglio dei Ministri.

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Tanto si comunica a codesta On. Commissione con preghiera di voler esprimere il suo avviso al riguardo.

IL MINISTRO

Handwritten signature

CAO
DCIO
CMA
CLO
C
6 JUN 1945

73A

HER MAJESTY'S ALLIED COMMISSION
APO 394
LOCAL SUB-COMMISSION

AC/1092/1/D.

EB/mt.
9 June 1945.

SUBJECT : Jurisdiction of Extraordinary Courts of Assises over
military personnel.

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

1. Reference para 6 of your monthly report for May INC/5054 of 6 June 45.
2. Enclosed further copy of VP's directive on this subject.
3. Please acknowledge receipt. ✓

By command of Rear Admiral STONE:

ey
A. D. THASORAY,
Lt. Col.,
Italian Branch,
for Chief Legal Adviser.

Incl.

127

72A

HEAD QUARTERS ALLIED COMMISSION
AFO 394
LEGAL SUB-COMMISSION

/rlp.
9 June 1945.

AC/4092/1/L.

SUBJECT : D.L. No. 142, Payment of Avvocati.

TO : Regional Commissioners (Attn: Regional Legal Officers),
EMILIA, LIGURIA, PIEMONTE, LOMBARDIA, VENETIA, and VENETIA GIULIA
Regions.

1. This letter is to confirm the information already given orally as to the payment of avvocati employed in the office of the pubblico ministero for the special Courts of Assize.
2. These avvocati should be treated as sostituti procuratori del regno and paid accordingly as officials of grade 6.
3. It is believed that by inadvertence payments in Emilia Region have already been sanctioned by order on the basis of grade 5. Arrangements must be made that in the future these payments conform with those of other regions.

By command of Rear Admiral STONE:

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

Copy to: Finance S/C;
File AC/4039/5/L.

4092/1
1
[Handwritten signature]

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
APO 394
Legal Division

SUBCOMMISSION	
CIO	71A
DCIO	
Chief Counsel	
CIO	
Italian Section	←
CL RKS	
8	
6 June 1945	

REF.: LEG/5027

SUBJECT : Salaries of avvocati who have volunteered to
serve on the Pubblico Ministero of the Extraordinary
Courts of Assizes.

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

1. This question was discussed with CLA and agreement to the payment of a salary obtained from Director Finance Sub-Commission. *(on the phone)*
2. Considering the fact that lawyers who join the P.M. give up the considerable fees they would otherwise receive for the defence of the accused, it is proposed to pay them, as a small compensation the same amount as judges of Grade VI receive as salary.
3. Could Director Finance S/c confirm this point officially and this Division be advised when this is done.
4. In the meantime P.L.Os will be instructed to inform members of the P.M. that compensation on the basis above set out will be paid.

For the Regional Commissioner

G. S. Hamerby
H.M. DICKIE
W/Cdr. R.A.F.
Regional Legal Officer

*1 drafted a letter
last night*

Copy to : P.L.O. Como.
vb.

[Handwritten signature]

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

70A

AC/4092/1/L.

ES/mt.
7 June 1945.

SUBJECT : Time limits under D.L. 142.

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

Enclosed for Your Excellency's information is a copy of a letter of PIO LOMBARDIA Region evidently written before the official memorandum of the Ministry was received in Milan but after Ministry's views were explained to the Regional Legal Officer.

Incl.

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

124

69A

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
APO 394
Legal Division

Ref.: LEG/5027

6 June 1945

SUBJECT : Jurisdiction of Extraordinary Court of Assizes.

TO : Legal Sub-Commission.

1. Copy of a letter of On. Boeri addressed to H.E. Lepore on the above matter is enclosed.
2. Lepore who is perfectly useless and incompetent is in Rome and the letter has been communicated to President Giuliano.
3. As neither this Division or General Cadorna have been informed of the result of the meeting of 1st June, could confirmation of the contents of On. Boeri's letter be forwarded please.

For the Regional Commissioner:

LEGAL SUB-COMMISSION
CLO
DC
Ch
C
Italian Branch
8 JUN 1945

G. G. Annunzio Head

H.M. DICKIE
W/Comdr., R.A.F.
Regional Legal Officer.

Annunzio
4 June

ar/

123

A S.E. LEFORE
 Procura Generale della Sezione Speciale della
 Corte di Cassazione - Palazzo di Giustizia - MILANO.

copy

69B

Alto Commissariato per le Sanzioni
 contro il Fascismo.
 Il Segretario Generale.

Roma, 6 Giugno 1945

Cara Eccellenza,

Oggi nel gabinetto di S.E. Tupini vi è stata una riunione presieduta dallo stesso a cui ho partecipato insieme a S.E. Borsari e al Rappresentante della Commissione Alleata (Sottocommissione Legale).

Si è esaminata la questione relativa all'eventuale concorso di competenza delle Corti d'Assise Speciali e del Tribunale Ordinario di Guerra per l'Italia Settentrionale, creato col DDL 1.2.1945, N° 65.

Si trattava di stabilire se per i reati previsti dal DDL 22 aprile 1945, N° 142, la Corte di Assise Speciale fosse competente a giudicare sia i civili che i militari o se, invece, i militari dovessero essere deferiti al Tribunale Militare Ordinario di Guerra.

Dopo un esame dettagliato delle due leggi ci siamo tutti accordati nel riconoscere che per i reati di collaborazione con i tedeschi, previsti dal DDL 22 aprile 1945, N° 142, la competenza spetta esclusivamente alle Corti di Assise Speciali, senza nessuna distinzione tra imputati civili e militari.

Questa interpretazione, che personalmente credo fondata in diritto, particolarmente in base al N° 5 dell'art. 1 del DDL N° 142, se affermata dalla Cassazione, avrà il vantaggio di evitare questioni di competenza particolarmente dannose e ritardi in giudizi che evidenti ragioni politiche esigono siano condotte con la migliore possibile rapidità.

Mi affretto comunicarle quanto precede, con preghiera d'informarne S.E. il Primo Presidente, di cui spero fare la personale conoscenza tra poco. E' infatti assai probabile che nella prossima settimana io abbia nuovamente occasione di recarmi a Milano.

Le invio i più cordiali saluti.

f.to M. Boeri

HEADQUARTERS
 ALLIED MILITARY GOVERNMENT
 LOMBARDIA REGION
 AFO 394
 Legal Division

67A

Ref. : LEG/5038

5 June 1945

SUBJECT : Time limits under D.L.L. 142

TO : AC HQ (Legal Sub-Commission)

1. Reference your AC/4092/1/L of 2 June, President Giuliano entirely disagrees with the Minister's understanding of Art. 13 of D.L.L. 142.

2. However at a meeting held yesterday, in order to meet existing contingencies, the President and Counsellors have agreed on the following interpretation of time limits under the said decree.

3. Art. 13 will be considered as applying to the procedure of "istruttoria" debate, rendering and depositing sentences with the Registrar.

4. Time limits under Art. 17 to apply to all appeals to Cassation after sentences have been deposited with the Registrar of the Court of Assizes.

5. Upon receipt by the Registrar of the Court of Cassation of the appeals filed with the Registrar of the Court of Assizes, the following time limits to apply

- a) in cases other than death sentences usual time limits under the Code of Penal Procedure
- b) in cases involving the death penalty ten days as provided for under Art. 17 of D.L.L. 142.

6. It is/

6. It is believed that the President's interpretation will give satisfaction to all concerned.

For the Regional Commissioner:

G. G. Hammond *Attn*

H.M. DICKIE
W/Comdr., R.A.F.
Regional Legal Officer.

ar/



It is

Communicate with M G J for

Comments.

tell them it was written before

Araia's official memo arrived

but after his views were explained

66A

HEADQUARTERS UNITED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/rlp.
8 June 1945.

AC/4092/1/L.

SUBJECT : Prefetto Uccelli.

TO : Regional Commissioner (Acting Regional Legal Officer),
Lombardy Region.

1. Reference was LAG/5027 of 4 June 1945 there has been a misunderstanding about this case.

2. I have spoken to Mr. Myron Taylor's first secretary who informed me that Mr. Taylor was approached by Monsignor Galeazzi of the Vatican, a first cousin of Uccelli, who requested that the execution of Uccelli be delayed for sufficient time to enable certain documents to be produced for the examination of the court. Mr. Taylor forwarded this request to General Hume, and has no further interest in the case.

3. I stated that this information was not entirely sufficient to enable me to give any useful advice to you in the case. Mr. Taylor, however, knew no more about it and has accordingly informed Monsignor Galeazzi that he should come to give me all the details. At the time of my writing this letter, this interview has not taken place but I will let you know the result as soon as possible.

4. If the documents are the same as those to which the First President refers in his report, it appears probable that they are not available for production, but that even if they were they would have no effect upon the result of the case. I shall so advise Monsignor Galeazzi.

5. If Uccelli appeals to the Court of Cassation it seems unlikely that his appeal will be heard before I have had an opportunity of clarifying the situation. I hope therefore that no further difficulty will arise.

My commands of your Admiral RIGGS

F. E. HERGENS,
Colonel,
Chief Legal Advisor.

Confidential.

65A

HEADQUARTERS
 ALLIED MILITARY GOVERNMENT
 LOMBARDIA REGION
 APO 394
 Legal Division

REF.: LEG/5027

4 June 1945

SUBJECT : Courts of Assizes - Uccelli's case.

TO : H.Q. Allied Commission
(Legal Sub-Commission)

1. IV Corps rang up this Division to state that H.E. Myrén Taylor had requested Brig.Gen. Hume to give instructions to suspend the execution of Prefetto Ucelli until further notice.
2. This request had been made on ~~an~~ phone by Col. Sutherland acting under Brig.Gen. Hume's instruction. SCAO 5 Army was expected back in Milan in a few days.
3. Ucelli was sentenced on the 28th ult. and will no doubt file an appeal to the Court of Cassation. There is therefore no probability of his being executed summarily.
4. However in order to give satisfaction to IV Corps, a letter has been sent to the P.G. requesting him to give this H.Q. notice of the day fixed for the execution of Ucelli at least three days beforehand.
5. At our request the P.P. has prepared the enclosed report on Ucelli's trial. You will see that the public in Milan takes a much more "vivid" interest in the proceedings of the Court of Assizes than the good people of Como in those of the Military Courts.

For the Regional Commissioner

S. S. Hamilton
 H.M. DICKIE
 W/Cdr. R.A.F.
 Regional Legal Officer

*RLO has been visiting the Piazza since Monday as matter of procedure & separate of public business etc. from the Court today.
 HE has been in Milan since 1943, a diplomat of course, has requested Army to put him back in office.
 He is writing further on this matter as soon as he can, but.*

65B

R. CORTE D'APPELLO DI MILANO

N.436

Milano, 4 giugno 1945

ILL.MO SIG. COL. GC. HANNAFORD

Commissione Alleata di Controllo

M I L A N O

Comunico alla S.V. Ill.ma le informazioni richieste sul processo contro Uccelli Oscar, svoltosi avanti la Corte Straordinaria di Assise di Milano. L'Uccelli aveva dichiarato:

- 1°) - che per ordine del Buffarini Guidi aveva richiesto la convocazione del Tribunale Straordinario Militare per giudicare persone in rappresaglie dell'uccisione del federale fascista Aldo Ravega, di cui erano ignoti gli autori;
- 2°) - che la lista delle persone da sottoporre al giudizio di detto tribunale gli era stata fornita dal comando della milizia V.F. e precisamente da Pollini e Bossi, appartenenti a detto comando;
- 3°) - che il generale Solinas aveva ordinato la convocazione del Tribunale Straordinario Militare designando i componenti dello stesso;
- 4°) - che esso Uccelli aveva dato le dimissioni dalla carica di prefetto verso il Natale 1943;
- 5°) - che esso Uccelli aveva provocato l'arresto del colonnello Colombo della legione autonoma " Muti " e ciò affermava allo scopo di dimostrare che egli era ostile all'ambiente fascista di Milano.

Il Prefetto attuale della città Ecc. Lombardi, interrogato come teste, depose di non essere personalmente informato delle circostanze suindicate. Il Presidente della Corte credette utile avere visione dell'incarto del processo svoltosi avanti il Tribunale Straordinario Militare suindicate e prendere visione della minuta della lettera delle allegate dimissioni dalla carica di prefetto dell'Uccelli. In attesa delle comunicazioni che il Prefetto Ecc. Lombardi si era riservato di dare circa i documenti suindicati, venne sospesa l'udienza momentaneamente. Fu ripresa dopo che era pervenuta una comunicazione del Prefetto con la quale s'informava che la minuta della lettera di dimissioni non era stata rintracciata e che il fascicolo del processo era sta-

to ritirato dall'ufficio del P.W.B.

La Corte ritenne, in conformità dell'avviso del P.M., che non fosse necessario fare altre indagini, poiché le circostanze di cui ai numeri 1, 2 e 3 erano sufficienti per il giudizio sulla responsabilità dell'Uccelli, tanto più che questi aveva ammesso di avere richiesto la convocazione di altro tribunale straordinario militare, sicché la sua responsabilità appariva ancora più grave.

Quanto sopra mi fu dichiarato dal Presidente Cav. Uff. Mottino. Lo stesso Prefetto Soc. Lombardi mi confermò la impossibilità di rintracciare la minuta della lettera di dimissioni dell'Uccelli, per il disordine in cui era stato trovato l'archivio della Prefettura, ed altresì la consegna del fascicolo del processo all'ufficio del P.W.B.

È vero che la folla, durante il corso del processo, tenne un contegno eccitabilissimo, prorompendo in manifestazioni verbali incomposte, interrompendo le deposizioni dei testi e l'avvocato difensore.

Il Presidente Mottino afferma di non aver avvertito che dalla folla si emettesse grida di "morte, morte". È verosimile, però, che tale grido, data l'eccitazione della folla, sia stato pronunciato. I testi, malgrado ciò, poterono rendere la loro deposizione in modo completo, ed il difensore dell'Uccelli poté svolgere la sua difesa, pure abbreviandone la conclusione.

Il difensore del Buffarini Guidi si limitò a rimettersi alla clemenza della Corte.

Non consta al Presidente se dei quattro giudici popolari tre appartenessero al partito comunista. Tutti quattro erano ~~ed~~ inclusi nell'elenco comunicato al Presidente del Tribunale dal C.L.N. locale.

Rilevo che fu impossibile evitare le manifestazioni a cui la folla si abbandonò nell'aula di udienza. Col Comando dei Carabinieri si era discusso se convenisse limitare l'accesso alla detta sala ad un ristretto numero di persone oppure invece permettere che si dibattimenti presenziasse un numero di persone pari alla capienza dell'aula. Si ritenne opportuno seguire questo secondo sistema, attesa la necessità di permettere che il pubblico avesse notizia diretta dello svolgimento dei processi. La limitazione del numero di presenti nell'aula avrebbe destato sospetti e malumori che era opportuno evitare. L'affollamento dell'aula mise, però, il Presidente nella difficoltà e qualche volta nell'impossibilità di frenare le anzidette manifestazioni incomposte. Nel caso in esame il Presidente si astenne dall'impartire l'ordine di sgombero della sala, poiché era prevedibile che questo non avrebbe potuto essere eseguito se non usando la forza. Ciò avrebbe aumentato l'eccitamento della folla e determinato

manifestazioni ancora più incompete.

Si è provveduto perché sia aumentato il numero dei carabinieri addetti al servizio d'ordine. E si confida che tale accorgimento e la diminuzione, col procedere del tempo, dell'eccitazione della folla, consentiranno che le udienze possano svolgersi in modo più sereno.

Con osservanza.

IL PRIMO PRESIDENTE FF.
(Dott. Aldo Carosegna)

Aldo Carosegna

P.S. Certain trials are tentored to by the crowd with great calm, but others have great excitement because the accused are better known to the public.

HEADQUARTERS ALLIED COMMISSION
APO 594
LEGAL SUB-COMMISSION

EE/mt.
7 June 1945

ME/4092/1/L.

SUBJECT : P.M. for Extraordinary Courts of Assize.
TO : H. E. The Minister of Pardon and Justice.

1. Reference Prot. No. 14609 (Direz. Gen. Affari Penali) of 31 May 1945.

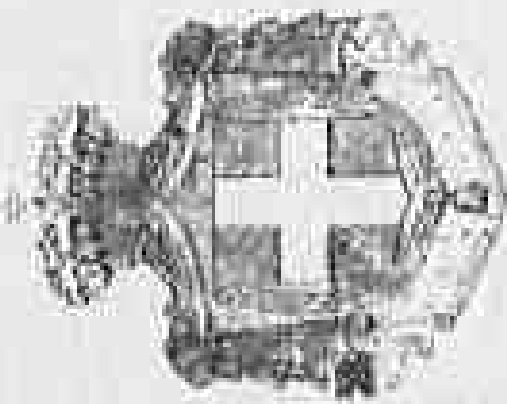
2. Practical experience has shown that appointments of avvocati to Pubblici Ministri of the above Courts became a matter of necessity in numerous instances. Your Excellency's conclusions in para 2 of your letter to the effect that such appointments are measures of exceptional nature only do not appear to correspond to reality due to the scarcity of qualified personnel.

3. Consequently the AMG was compelled to issue instructions that avvocati appointed to P.M. shall receive salaries equal to emoluments paid to officials holding grade 6.

4. It would be appreciated if Your Excellency could take immediate steps to conform the Italian law to this practice.

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

114



Uff. III° A.P.
Prot.n. 1460-9

40921/16
Ministero di Giustizia
DIREZIONE GENERALE AFFARI PENALI

Roma, 11 5/ maggio 1945

Risposta a nota del 23.5.945 - A.C.
4092 I/L

25A
Alla COMMISSIONE ALLEATA
Sottocommissione Legale

R O M A

OGGETTO: Corti Straordinarie di Assise.

In relazione a quanto è stato comunicato con la nota suindicata, si fa presente che l'incarico ad avvocati di rappresentare il pubblico ministero presso le Corti Straordinarie di Assise, secondo il disposto del cap.I° Art.10 D.L.L.22.4.945 n.142, dovrebbe ritenersi, secondo questo Ministero, onorifico e quindi gratuito, dato il silenzio della legge al riguardo.

D'altra parte, la effettiva necessità di far ricorso a liberi professionisti per l'incarico suddetto dovrebbe presentarsi soltanto ove mancassero o fossero totalmente assorbiti dalle ordinarie occupazioni i magistrati addetti alle singole Procure, ciò che non dovrebbe verificarsi, a quanto risulta a questo Ministero.

Ad ogni modo, poichè codesta On. Commissione fa presente che già si è verificato che avvocati, chiamati a rappresentare il P.M. avanti le Corti di Assise Straordinarie, si sono mostrati restii ad assumere l'incarico, dubitando che possa venir loro corrisposto un congruo onorario, si fa presente di ciò edotta la Presidenza del Consiglio e il Ministro del Tesoro per gli eventuali provvedimenti di loro competenza.

per il MINISTRO
(A. Spallanzani)

Prot.n. 1420/9

2011

Roma, li 5/ maggio 1945
Risposta a nota del 23.5.945 - A.C.
4092 I/L

ALLA COMMISSIONE ALLEATA
Sottocommissione Legale

R O M A

OGGETTO: Corti Straordinarie di Assise.

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D'altra parte, la effettiva necessità di far ricorso a liberi professionisti per l'incarico suddetto dovrebbe presentarsi soltanto ove mancassero o fossero totalmente assorbiti dalle ordinarie occupazioni i magistrati addetti alle singole Procure, ciò che non dovrebbe verificarsi, a quanto risulta a questo Ministero.

Ad ogni modo, poichè codeste On. Commissione fa presente che già si è verificato che avvocati, chiamati a rappresentare il G.P.M. avanti le Corti di Assise Straordinarie, si sono mostrati restii ad assumere l'incarico, dubitando che possa venir loro corrisposto un congruo onorario, si fa presente di ciò edotta la Presidenza del Consiglio e il Ministro del Tesoro per gli eventuali provvedimenti di loro competenza.

pel M I N I S T R O
(A. Spallanzani)

Divisione
C.D.O.
C.D.P.
C.D.M.
C.D.N.
C.D.E.
C.D.F.
C.D.G.
C.D.H.
C.D.I.
C.D.L.
C.D.M.
C.D.N.
C.D.O.
C.D.P.
C.D.Q.
C.D.R.
C.D.S.
C.D.T.
C.D.U.
C.D.V.
C.D.W.
C.D.X.
C.D.Y.
C.D.Z.

HEADQUARTERS ALLIED COMMISSION
AVC 394
CIVIL AFFAIRS SECTION

AC/4092/L/L.

/rlp.
7 June 1945.SUBJECT : Internment Procedure in relation to Italian Special Courts of
Assize.

TO : AMK, G-5.

1. Reference your G-5: 383.7-15 of 5 June 1945.
2. Special Courts of Assize have been instituted throughout the regions of Emilia, Liguria, Piemonte, Lombardia, Venezia (except Venezia Giulia).
3. It is now under consideration at the Ministry of Justice to extend the provisions of Legislative Decree No. 14 of 22 April 1945 to Florence and Incone Provinces.

For the Chief Commissioner:

G. R. UPJOHN, Brig.,
VP CA Sec. R. Ad.

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4092/1

*LEGATIA
2305*

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

TBJ/jrs

G-5: 383.7-15

5 June 1945

SUBJECT: Internment Procedure in Relation to
Italian Special Courts of Assize.

TO : Headquarters, Allied Commission,
APO 394.

1. With reference to Legislative Decree No. 142
of 22 April 1945, G-2 this HQ have requested information
of the territories in which the Special Courts of Assize
have been instituted.

2. It is requested you will supply the above infor-
mation.

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

HEADQUARTERS
A. C.

T. B. Jackman
Lt. Col.
T. B. JACKMAN
Lt. Colonel.

HEADQUARTERS ALLIED COMMISSION	
TO	<input checked="" type="checkbox"/>
BOLO	
Chief of Staff	
INFO	
REPLY	
DATE	
?	JUN 1945

Reply
throughout Regions of
Emilia Romagna Piemonte
Lombardia Venezia, except
Venezia Giulia.
It is ^{now} under consideration at
the Ministry of Justice to set up
a Florence and Ancona offices.

H. QUARTERS ADDED COMMISSION
 APO 394
 LEGAL SUB-COMMISSIONER

WEB/pa.
 6 Jun 45.

AS/4092/1/D.

SUBJECT : Republican Ministry of Justice and
 Court of Cassation. (Epurazione)

TO : Regional Commissioner (Attn: R.L.O.),
 LOMBARDIA Region.

1. Reference your LEG/5038 dated 4 June 1945 it is hoped that Pres. Voglietti will accept the proposed nomination and relieve our troubles to that extent.

2. Your observations concerning Cons. Giovanni BRIOCHETTI are not understood. You requested that he be appointed as Counsellor on the Special Section of Cassation at Milan and the Minister has complied with this request.

3. In these circumstances it is not understood

- (a) how he can function as a member of an Epuration Commission under G.U.No.35, or
- (b) how he can return to the Pubblico Ministero if he is not used on this commission.

4. As to the nominal rolls of personnel for the Ministry and Cassation, we are taking this up with the Minister. It is observed that several of the officials left their posts in May 1944 and 2 more ^{did not take} up their appointments. However it seems unlikely that the information contained in the list will be sufficient to enable the Minister to deal finally with any of these personnel. The opinion which he previously expressed and which I imagine he will maintain is that

- (a) All persons who went north with the Ministry or the Court of Cassation must be suspended forthwith and epurated. Pending epuration they should receive only their minimum basic salary at their pre Fascist Republican official grade.

(b) Persons who were in the north and merely took up work at their official grade in order to live, or were appointed to posts but did not assume the appointment are to be examined case by case. The Ministry will not employ these officials until such examination has been had but, if you are satisfied that any of them are suitable for further provisional employment, the Ministry would have no objection.

5. The Minister is writing a formal letter on the above which will be communicated to you.

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

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/1092/L.

RS/mt.
6 June 1945.

SUBJECT : Presidents of Extraordinary Courts of Assises (D.L. 142).
TO : H.E. The Minister of Pardon and Justice.

1. Your Excellency's attention is invited to the enclosed communication directed by the Primo Presidente of the Court of Appeal, Turin, to the Regional Legal Officer, PIEDMONT. The problem set out therein is not limited to PIEDMONT and identical suggestions have been received from all Northern Regions.

2. This Sub-Commission fully appreciates that owing to the serious character of offences dealt with by the Extraordinary Courts the office of the President should be held by a capable magistrate of sufficient experience. On the other hand Your Excellency will agree that the proper and rapid functioning of the Extraordinary Courts is a fundamental postulate paramount to any other consideration.

3. This Sub-Commission does not wish to put forward any formal proposal for the solution of this question nor will it take any action which would exceed the scope of Art. 6 of D.L. 142 unless the Italian Government enacts the appropriate amendment authorising the Presidents of Courts of Appeal to appoint grade 6 magistrates as Presidents of the Extraordinary Courts of Assises unless Your Excellency gives your assurance that it would be proper for the AMG to temporarily promote local judges holding grade 6 and have them assigned in grade 5 to the Assises. Your Excellency might also wish to consider the possibility of transferring temporarily a certain number of Consiglieri d'Appello from the South to the North and of delegating some other functions at present performed by grade 5 magistrates to officials holding grade 6 thus relieving the former for the work in the North.

4. Your Excellency will agree that in the light of the growing number of Extraordinary Courts and their Sections and owing to the increasing general scarcity of grade 5 magistrates this problem deserves a serious and urgent consideration.

5. Would Your Excellency please advise this Sub-Commission of the steps you propose to take and of the total number of grade 5 magistrates whom you will have available for the North.

Incl: copy letter of Court Appeal
Turin, dtd 25.5.45, No. 401

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

Copy to: AC/1039/L.

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MINISTERO DELLA GIUSTIZIA
 AMO 304
 LEGAL SUB-COMMISSION

AG/4037/4.

ES/1c.
 6 June 1945.

SUBJECT : Special Section of Court of Cassation.

TO : Regional Commissioner (Regional Legal Officer),
 LOMBARDIA Region.

1. Reference your LEG/5038 of 31 May 45 re Extraordinary Courts of Assize and Section of Court of Cassation and your L/5067 of 1 June 1945 re Judicial personnel, Milan.
2. I have discussed the personnel question of the Special section with Banca with the following results:
 - a) It is agreed that Presidente Giuliano and Consigliere Toccoa will remain at Milan.
 - b) According to Ministry's records the following Presidenti di Sezione should be in service with the Court of Appeal at Milan: LIPOLINI Giovanni, BORSIEME Aroldo, GALEUCCI Giovanni, DI RUBBIS Gastano. Please confirm that these gentlemen are in fact in Milan and indicate three of them whom you wish to be appointed as Consiglieri to the Court of Cassation Section. The Minister will issue the appropriate decrees at once. When this is done the present members of the Cassation Section may return from Milan to Rome as per para 3 of your letter LEG/5038 of 31 May 45.
 - c) Contrary to your advice re Consigliere Berardi the Ministry now reports that H. G. Lepore, the P.G. of the Special Cassation Section is of the opinion that Berardi's appointment at Milan would cause a scandal. It appears that Berardi was sottosegretario tecnico per Giustizia (in fact vice-Minister of Justice) in Albania. However, if you are still satisfied that the appointment would not cause any difficulty the Ministry is willing to effect the transfer.
 - d) The Ministry is preparing a decree transferring Nicola IANNARONE to Bologna as proposed by you and Cartasegna.
 - e) LANZI, TRAMONTANO and CALABRIA have already been promoted to grade 5. Official communication to this effect will be transmitted to you to-morrow so that

Lanni and Galabria who are already at Milan may assume their new duties without delay. DE CAROLIS Giulio is reported sick and his departure to Milan might be delayed.

- 2) The Ministry has decided to promote "per scrutinio" the following 3 magistrates to grade 4 :
- (i) GUIDI Umberto, Consigliere, Court of Appeal Milan.
 - (ii) MEDICI Bruno, Pres. Sec. Tribunale Milan.
 - (iii) PALAVINI Ludivici, Consigliere Court of Appeal Milan.

The promotions will be effected this week and you will be able to employ the three magistrates either as Section Presidents of the Court of Appeal (to take place of three Section presidents referred above under (b)) or they might be assigned to the Special Cassation Section if additional Consiglieri are needed.

3. Please forward a copy of the AMG order appointing Cons. LEVI to Consigliere of the Special Section. Contrary to your LBU/5038 of 25 May 45 you now seem to propose to appoint GRAY to the bench rather than to P.M. of the Special Section. (your 5067 of 1 June, para 3 refers). Please clarify this and transmit a copy of relative appointing order for the Ministry.

4. Kindly advise whether in your opinion it will be necessary to set up a second section of the Special Cassation Section at Milan.

W. B. SMITHS,
Colonel,
Chief Legal Advisor.

Copy to : AG/4092/1/L.

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57A

HEADQUARTERS ALLIED COMMISSION
PO 394
LOCAL SUB-COMMISSION

WEB/ps.
6 Jun 45.

AG/4032/1/D.

SUBJECT : Extraordinary Court of Assize.

TO : Regional Commissioner (Attn: R.L.O.),
VENEZIE Region.

1. Reference your RKII/LC/Reg/C/03.1., dated 31 May 1945.
 2. Difficulty has been experienced in other regions because of the failure of persons who have imprisoned collaborators to come forward with evidence against them.
 3. In these cases arrangements have been made for the First Presidents of the Courts of Appeal to insert in the newspapers requests for "denunzia" coupled with the statement that if none is received the accused will be released. It is intended that two or possibly three such notices will be issued before anyone is released, finally giving the names of people against whom no evidence exists.
 4. The reason for this, at least in Milan, is that it is considered that the persons in gaol may be in considerable danger if released prematurely. I do not know to what extent this applies in Venezia.
 5. On the subject of trials of POWs, we are awaiting a decision from AFHQ on the extent to which it is intended that persons, arrested by partisans etc. and claiming to be treated as prisoners of war, are to be evacuated to POW cages. In the meanwhile, of course, arrangements can generally be made through the military authorities for any persons who have been evacuated and are accused of atrocities or similar crimes to be turned back to the Italian authorities for trial before the Special Courts.
- By command of Rear Admiral STONE:

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

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HEADQUARTERS
 ALLIED MILITARY GOVERNMENT
 LOMBARDIA REGION
 APO 394
 Legal Division

REF.: LEG/5038

4 June 1945

SUBJECT : Republican Ministry of Justice & Court of Cassation.
 (E.puration)TO : H.Q. Allied Commission ✓
 (Legal Sub-Commission)

1. The undersigned has authorized Judge Zingale and Counsellor Baddia to use his command car in order to transfer all important documents relating to the administration and personnel of the above referred institutions, from Cremona and Brescia to Rome . If no car is available by the end of the week Lt.Col. Hannaford will travel by air.
2. A report from Judge Zingale and a list of personnel actually on the rolls of the Ministry and Cassation is enclosed. It is intended to suspend automatically under G.O. 35 all such personnel, unless instructions to the contrary are received from you after consultation with the Minister of Justice.
3. Please let this sub-commission have your views as soon as possible.
4. Your suggestion with regard to Pres. Vogliotti has been noted and he will be approached. In the meantime to avoid delays it is intended to appoint the E.puration Commission (~~under G.O. 35~~) for the Magistracy of the Milan District tomorrow .
5. The following list has been forwarded to C.L.N. for their opinion : Counsellor Giovanni Bricchetti (grade IV) President
 " Umberto Natta (grade IV)
 Prof. Mario Rotondi
 Avv. Giuseppe de Amicis
 Avv. Natale Frigerio.
6. If President Vogliotti accepts, he will replace Bricchetti
 (who

(56A)

4092/1

see copy to US on 6 June

Tolno
418

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56B

ELenco DEI MAGISTRATI E DEI FUNZIONARI DI CANCELLERIA
IN SERVIZIO PRESSO LA CORTE SUPREMA DI CASSAZIONE
SEZIONE DI BRESCIA.

MAGISTRATI

Romano	prof. Enrico	= Pres. di Sez. anziano ff. di P. Presid.
Cantelli	dr. Arturo	= Pres. di Sez.
Pace	" Ignazio	= " " "
Forlenga	" Francesco	= " " "
Montalto	" Giuseppe	=(a disposizione della Commis. di Giustizia)
Cerbore	" Giuseppe	=(applicato alla segret. part. del "duce")
Vallillo	" Erennio	=
Oggioni	" Luigi	=
Pazzari	" Luigi	=
Nigro	" Gabriele	=
Dematteis	" Francesco	=(in aspettativa, res. a Polonghera)
Guzzetta	" Mario	=
Mannetti	" Paolo	=
Bindi	" Cesare	=
Bassanelli	" Paolo	=(allontanatosi senza permesso il 10 marzo diretto a Bologna, nè più rientrato)
Gerace	" Pietro	=
Guidi	" Umberto	=(in congedo fino al 6 gennaio 1945, non è rientrato in sede dopo tal data)
Sarno	" Pasquale	=
Marchetti	" Tito Giov.	=(allontanatosi il 31.5.44 diretto a Firenze nè più rientrato)
Comunoci	" Mario	=(allontanatosi il 31.5.44 diretto a Firenze nè più rientrato)
Renis	" Vincenzo	=(allontanatosi il 31.5.44 diretto a Firenze nè più rientrato)
Artina	" Gastone	=(nominato Pres. Corte d'assise straordinaria di BERGAMO, ha lasciato

Brescia il corr.)

Priniceri Sr. Umberto = (ha lasciato Brescia il 24 aprile '45 diretto a Milano, nè è più rientrato).

Schiralli " Giuseppe = Consigliere (ha lasciato Brescia il 24 aprile '45, senza farvi più ritorno)

Del Monego " Attilio = Consigliere

Morfino " Arturo = "

Martelli " Alfredo = "

Galassi " Giuseppe = "

Prospero " Giuseppe = " (ha lasciato Brescia il 23 aprile '45, nè vi ha fatto ritorno)

Rotrone " Tomaso = " (non ha assunto possesso)

Sciacarini " Alessio = " (non ha assunto possesso)

FUNZIONARI DI CANCELLERIA

Melis Giovanni = Cancell. di sez. (grado VII)

Conti Ferdinando = " "

Ronde Domenico = " "

Delle Donne Francesco = Cancelliere (grado X) = ha lasciato Brescia senza possesso il 22.4.45, nè più vi ha fatto ritorno)

Cociglio Roberto = " (grado X) = partito senza congedo il giorno 16.4.45, non è più rientrato)

Benedetti Giorgio = " (grado X) = partito in congedo di 10 giorni il 23.4.45 non è più rientrato)

Ballerini Arnaldo = " (grado XI) = partito con congedo di 4 giorni il 30.3.45 nè più ha fatto ritorno)

Marre Vittorio = Aiutante di cancelleria =

Brescia, 28 maggio 1945

IL CANCELLIERE DI SEZIONE

f.to G. Melis

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ROSTER DEI MAGISTRATI E DEI FUNZIONARI DI SEGRETARIA IN SERVIZIO
NELLA PROCURA GENERALE DELLO STATO PRESSO LA CORTE SUPREMA
DI CASSAZIONE - SEZIONI DI BRESCIA

Lamberti Bocconi dr. Livio	=	Procuratore generale
Crespellani	"	Oliviero Sost.proc.gen. (in aspettativa)
Tropiano	"	Vincenzo " " "
Perretti	"	Eduardo " " "
Papa	"	Carlo " " "
Durand	"	Lorenzo " " "
Bassano	"	Alfredo " " "
Delchaye	"	Edoardo Proc. di Stato applicato
Masciulli	"	Ettore Sosta proc.gen. d'appello, applicato.

S E G R E T A R I A

Milazzo	Corrado	=	Segret. di Sez. = Grado VII
Sestito	Giuseppe	=	" " "

Brescia, 28 maggio 1945

IL CANCELLIERE DI SEZIONE

f.to G. Melis

MEMORIA PER IL SIG. TOUL. HANNAFORD-

Oggetto: Situazione degli Uffici del Ministero fascista delle Giustizie.

a) - Milano - In questa città si era trasferito, nel Febbraio 1945, da Brescia, il gabinetto dello pseudo ministro fascista delle Giustizie.

Sono rimasti nei locali del Palazzo di Giustizia gli archivi del gabinetto con numerosi atti interessanti per l'accertamento della collaborazione prestata dal personale alla c.d. Repubblica Sociale.

Di tali atti ha preso visione anche il Giudice Dr.

Ugo Natoli rappresentante dell'Alto Commissariato per l'Epurazione, giunto in questi giorni da Roma, allo stesso ho consegnato l'elenco del personale iscritte al P.F.R. e pochi altri atti ineventi e pratiche di epurazione.

E' stata disposta la conservazione in una stanza dei materiali di proprietà dell'Amministrazione (Macchine da scrivere, cancelleria ecc.)

b) - Brescia - Sono rimasti degli atti di non molto interesse presso la Procura Generale.

Deve recuperarsi del materiale, usato attualmente in parte dal C.L.N. E' competente per queste operazioni il Provveditorio Generale dello Stato.

Ho trovato in perfetta regola l'Ente di Previdenza degli Avvocati con tutti i fondi, ora bloccata per sicurezza.

1945

c) - 1940 - Vi restano, come privati cittadini, taluni dei magistrati addetti alla Cassazione. I ricorsi sono conservati a Brescia.

Oggetto: Situazione degli Uffici del Ministero fascista della Giustizia.

a) Milano = in questa città si era trasferito, nel Febbraio 1943, da Brescia, il Gabinetto dello pseudo ministro fascista della Giustizia.
Sono rimasti nei locali del Palazzo di Giustizia gli archivi del Gabinetto con numerosi atti interessanti per l'accertamento della collaborazione prestata dal personale alla C.A. Repubblica Sociale.

Da tali atti ho preso visione anche il Giudice Dr. Ugo Metoli rappresentante dell'Alto Commissariato per l'Epurazione, giunto in questi giorni da Roma, allo stesso ho consegnato l'elenco del personale iscritte al P.F.R. e pochi altri atti inerenti a pratiche di epurazione.

È stata disposta la conservazione in una stanza dei materiali di proprietà dell'Amministrazione (Macchine da scrivere, cancellerie ecc.)

b) Brescia = Sono rimasti degli atti di non molto interesse presso la Procura Generale.
Dove recuperarsi del materiale, usato attualmente in parte dal C.L.N. È competente per queste operazioni il Provveditorio Generale dello Stato.
Ho trovato in perfetta regola l'Ente di Previdenza degli avvocati con tutti i fondi, ora bloccata per sicurezza.

c) ISEO = Vi restano, come privati cittadini, taluni dei magistrati adetti alla Cassazione. I ricorsi sono conservati a Brescia.

fascista della Giustizia.

Sono rimasti nei locali del Palazzo di Giustizia gli archivi del Gabinetto con numerosi atti interessanti per l'accertamento della collaborazione prestata dal personale alla c.d. Repubblica Sociale.

Da tali atti ha preso visione anche il Giudice Dr.

Ugo Petoli rappresentante dell'Alto Commissariato per l'Espulsione, giunto in questi giorni da Roma, allo stesso ho consegnato l'elenco del personale iscritte al P.F.R. e pochi altri atti inerenti a pratiche di epurazione.

E' stata disposta la conservazione in una stanza dei materiali di proprietà dell'Amministrazione (Macchine da scrivere, cancellerie ecc.)

b) - Brescia - Sono rimasti degli atti di non molto interesse presso la Procura Generale.

Dove recuperarsi del materiale, usato attualmente in parte dal C.L.N. E' competente per queste operazioni il Provveditorio Generale dello Stato.

Hg trovato in perfetta regola l'Esate di Providence degli Avvocati con tutti i fondi, ora bloccata per sicurezza.

c) - ISDO - Vi restano, come privati cittadini, taluni dei magistrati addeetti alla Cassazione. I ricorsi sono conservati a Brescia.

Ho recuperato una autovettura Fiat 1900 da riparare.

d) - CREMONA - in queste città funzionavano le Direzioni Generali del Ministero Fascista.

Gli atti sono stati trovati in buona conservazione; mancano quelli non giunti per causa di bombardamento. Sono recuperabili, in particolare, tutti i fascicoli dei magistrati e cancellieri, importantissimi per l'Amministrazione.

-2-

Vi è notevole materiale per l'Ufficio (Macchine da scrivere
calcolatrici, telefoni ecc. ecc.) discretamente conservato.
Ho recuperato un camioncino di proprietà dell'Amministrazione
ne, già sottratto da Farinacci, con cui si potranno iniziare
subito i trasporti del materiale a ROMA.

Milano 3 Giugno 1945

Dr. Salvatore Zingale

Cindice adetto al gabinetto del Ministro
di Grazia e Giustizia in missione da Roma

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-2-

Vi è notevole materiale per l'Ufficio (Macchine da scrivere
calcolatrici, telefoni ecc. ecc.) discretamente conservato.
Ho recuperato un camioncino di proprietà dell'Amministrazione
ze, già sottratto da Farinacci, con cui si potranno iniziare
subito i trasporti del materiale a ROMA.

Milano 3 Giugno 1945

Dr. Salvatore Zingale

Giudice adetto al gabinetto del Ministro
di Grazia e Giustizia in missione da Roma

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Elenco dei Magistrali e funzionari che prestavano servizio nelle Direzioni Generali presso il Ministero della Giustizia via fascista di Cremona.

Cognome, nome e qualifica

1	Berardelli Dr. Giulio	Primo Presidente di C. Appello Capo dei Servizi
2	Pitroni Dr. Ulisse	Ispettore Generale
3	Tedeschi Dr. Alessandro	Consigliere Corte d'Appello, Direttore Generale Istituzioni di Pena
4	Ferris G. Maria	Cons. C. Appello Direttore Gen. Personale
5	Pastore Dr. Ettore	Cons. C. Appello Direttore Gen. Affari Civili
6	Mastandrea Dr. Davide	Cons. C. Appello
7	Sargioli Dr. Girolamo	Cons. C. Appello
8	Palumbo Dr. Filippo	Cons. C. Appello
9	Palermo Dr. Letterio Livio	Cons. C. Appello
10	Santoro Dr. Nicola	Cons. C. Appello
11	Bonatti Dr. Eucio	Giudice Dires. Generale Affari Penali
12	Severato Dr. Giuseppe	Giudice
13	Serra Dr. Sebastiano	Giudice
14	Personali Dr. Adelio	Sost. Proc. di Stato
15	Ruffini Dr. Armando	Sost. Proc. di Stato
16	Delpino Dr. Aldo	Pretore
17	Pettinari Dr. Umberto	Pretore
18	Figus Dr. Cesare	Pretore
19	Costanzo Dr. Luigi	Aggiunto Giudiziario
20	Acerre Luigi	Aggiunto Giudiziario
21	Pallini Dr. Giorgio	Uditore
22	Coco Dr. Luigi	Uditore
23	Scagnetti Igino	Cancelliere Capo
24	Gabbi Federico	" "
25	Storchi Ercole	" "
26	Novelli Benvenuto	Cancelliere
27	Bassetti Angelo	" "
28	Gonella Eugenio	" "

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- 5 Pastore Dr. Ettore Cons.C.Appello Direttore Gen. Personale
- 6 Mastrendrea Dr. Davide Cons.C. Appello Direzione Gen. Affari Civili
- 7 Gargiulli Dr. Girolamo Cons.C. Appello
- 8 Palumbo Dr. Filippo Cons.C. Appello
- 9 Palermo Dr. Letterio Advio Cons.C. Appello
- 10 Santoro Dr. Nicola Cons.C. Appello
- 11 Bonatti Dr. Enrico Giudice Direc. Gen. Affari Penali
- 12 Semerato Dr. Giuseppe Giudice
- 13 Serra Dr. Abessieno Giudice
- 14 Personali Dr. Adello Scat.Proc. di Stato
- 15 Ruffini Dr. Armando Scat. Proc. di Stato
- 16 Delpino Dr. Aldo Pretore
- 17 Pettinari Dr. Umberto Pretore
- 18 Fiasca Dr. Cesare Pretore
- 19 Costanzo Dr. Luigi Aggiunto Giudiziario
- 20 Acerra Luigi Aggiunto Giudiziario
- 21 Pallini Dr. Giorgio Uditore
- 22 Coco Dr. Luigi Uditore
- 23 Scagnetti Iginò Cancelliere Capo
- 24 Gabbi Federice " "
- 25 Storchì Ercole " "
- 26 Novelli Benvenuto Cancelliere
- 27 Bassetti Angelo " "
- 28 Bonella Eugenio " "
- 29 Cappi Amedeo " "
- 30 Gaspietro Giuseppe " "
- 31 Brizzi Alberto 1° Cancelliere
- 32 Bini Giuseppe " "
- 33 Cavallieri Antonio " "
- 34 Mauro Mario Cancelliere

- 2 -

35 Piccoli rag. Ia id.
 36 Pazzari Geom. Antonio id.
 37 Signani Francesco id.
 38 Calviello Antonio id.
 39 Prosperi dott. Raffaello id.
 40 Marino dr. Pasquale id.
 41 Mastini Giuseppe id.
 42 Ciraldo Ivo id.
 43 Bartesaghi Antonio id.
 44 Galati dr. Fortunato id.
 45 Cieri dr. Conzezio id.
 46 Accardo dott. Raffaele id.
 47 Santillo Luca id.
 48 Tedeschi Mario id.
 49 Tinto Michele id.
 50 Preucitti Roberto id.
 51 Tommasi Luigi id.
 52 Perugini Alberto id.
 53 Comitini Giuseppe aiutante di cancelleria
 54 Aloisi Omero id.
 55 Bruno Salvatore id.
 56 Muto Amedeo id.
 57 Lala Antonio id.
 58 Piccoli Eremio id.
 59 Imordino Michele id.
 60 Aparo Salvatore id.
 61 Sturlese Riccardo id.
 62 Sportello Federico id.
 63 D'Addario Teodoro id.
 64 Marra Vittorio id.
 65 Fregoli Livio id.
 66 Proietti Mario id.
 67 Marzulli Alberto id.

43 Bartesaghi Antonio id.
 44 Galati dr. Fortunato id.
 45 Cieri dr. Concenio id.
 46 Accardo dott. Raffaele id.
 47 Santillo Luca id.
 48 Tedeschi Mario id.
 49 Sinto Michele id.
 50 Preschutti Roberto id.
 51 Comasi Luigi id.
 52 Perugini Alberto id.
 53 Comitini Giuseppe aiutante di cancelleria
 54 Aloisi Omero id.
 55 Bruno Salvatore id.
 56 Rato Amedeo id.
 57 Lala Antonio id.
 58 Piccoli Erennio id.
 59 Immordino Michele id.
 60 Aparo Salvatore id.
 61 Sturlese Riccardo id.
 62 Sportello Federico id.
 63 D'Addario Teodoro id.
 64 Marra Vittorio id.
 65 Fregoli Livio id.
 66 Proietti Mario id.
 67 Misarelli Alberto id.
 68 Pecolla Gino id.
 69 Cossu Pietro id.
 70 Invernardi Mario id.
 71 Sorli Francesco id.

aiutante di cancelleria
 applicato
 Traduttore Capo
 cancelliere

Funzionari Direzione Generale degli Istituti
di Prevenzione e Pena

72	Pitterino dott. Giocchino	1° Segretario
73	Gerbo dott. Guido	id.
74	Di Piazza dott. Géo Battista	id.
75	De Sierve dott. Vincenzo	id.
76	Luciano dr. Giovanni	Direttore di 1° classe
77	Mazzone dott. Concetto	Direttore di 2° classe
78	Dall'Alba rag. Giovanni	Ragioniere Capo
79	Russo Giuseppe	Istitutore
80	Moscato dott. Salvatore	Ragioniere
81	Bernabò Silorata rag. Ettore	Ragioniere
82	D'Alena Giulio	Istitutore
83	Bova Ragioniere	Ragioniere
84	Cittadino Pasquale	Assistente
Funzionari di Ragioneria		
85	Di Piazza dott. Antonio	Ragioniere Capo
86	De Cristofaro fr. Manlio	V. Segretario di Ragioneria
87	Girillo dott. Ugo	id.
88	Gelsomoni Gennaro	applicato
89	Pasquali Elodia	giornaliera
Funzionari degli Archivi Notarili		
90	Ciccolà Alfredo	Assistente di 1° Classe
91	Ala Giuseppe	id.
92	Villari Nicolò	Archivista
93	D'Amico Pietro	Assistente di 2° Classe
94	Gualtieri Francesco	Ragioniere aggiunto
Assenti		

95

74 Di Piazza dott. Gio Battista id.
 75 De Sierro dott. Vincenzo id.
 76 Lucisano dr. Giovanni Direttore di 1° classe
 77 Mazzone dott. Concetto Direttore di 2° classe
 78 Dall'Alba mag. Giovanni Ragioniere Capo
 79 Russo Giuseppe Istitutore
 80 Moscato dott. Salvatore Ragioniere
 81 Bernabè Silvana rag. Ettore Ragioniere
 82 D'Alena Giulio Istitutore
 83 Bova Ragioniere
 84 Cittadino Pasquale Assistente

Funzionari di Ragionerie
 85 Di Piazza dott. Antonio Ragioniere Capo
 86 De Cristofaro fr. Manlio V. Segretario di Ragioneria
 87 Cirillo dott. Ugo id.
 88 Gelsomoni Gennaro Applicato
 89 Pasqual Elodia Giornaliera

Funzionari degli Archivi Notarili
 90 Ciccoli Alfredo Assistente di 1° Classe
 91 Ali Giuseppe id.
 92 Villari Nicolò Archiviista
 93 Dimino Pietro Assistente di 2° Classe
 94 Gualtieri Francesco Ragioniere aggiunto

Agenti
 95 Orlando Giuseppe Capoguardia
 96 Terzo Alfredo id.
 97 Crifò Antonino id.
 98 Di Candia Ferdinando id.

35

55A

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
APO 394
Legal Division

REF.: LEG/5027

4 June 1945.

SUBJECT : Extraordinary Courts of Assizes.

TO : R.C. Venezia Region (for R.L.O.)
E.C. Piedmont Region (for R.L.O.)

1. The President of the Section of Cassation in Milan is anxious to know where and when the Extraordinary Courts of Assizes started to function in your Region.
2. Would you be good enough to let officer i/c Italian Branch have the required information, together with the number of appeals to Cassation that may be expected from these Courts to date.
3. Please state also if any regularly convened Italian Military Courts operate in your Region.

G.S. Hannaford 146
 G.S. HANNAFORD, Lt.Col.
 Officer i/c Italian Branch
 Legal Sub-Commission
 H.Q. Allied Commission
 (temporarily in Milan)

Copy to : Legal Sub-Commission. ✓

95

54A

Handwritten scribbles and lines

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
APO 394
Legal Division

REF.: L/5067

1 June 1945.

SUBJECT : Judicial personnel for Milan.
TO : H.Q. Allied Commission
(Legal Sub-Commission)

*Consigliere
PM
OK*

1. Your AC/4092/1/L of 29 May refers.
2. Consigliere Levi will be appointed to the Section of Cassation of Milan by AMG order pending confirmation by Ministerial Decree.
3. Same procedure will be applied in Cons. Gray's case.
4. In view of the shortage of Consiglieri and the expected increase in number of appeals to the Court of Cassation, the appointment of Consigliere Berardi would be also welcomed.- Please inform the Minister accordingly.
5. It is believed that recourses will start flowing in after June 15th, when all Extraordinary Courts will be opened and the established time limits run out.

6. The appointments of Consiglieri : Pier Luigi Calabria *with*
 Nicola Iannarone *(see over)*
 Antonio Ianni *with 3!*
 Giulio De Carli
 Nicola Tramontano *with*

to the Court of Milan are exceedingly welcomed. Kindly hasten their departure and advise this H.Q. some time in advance.

*When
ready to
go?*

H. S. Hamilton
H.M. DICKIE
W/Cdr. R.A.F.
Regional Legal Officer

Parigi

The case of Cons. Imbrugna is delicate. Although removed by G.I.F. because of his assignment by the R. Fascist government, he was actually entitled to such appointment having passed his "concorsi" brilliantly in March 43 and having been promoted in August 43. The P.P. says he is first class and no Fascist. However in view of the tension existing here, it would be preferable to appoint him to Brescia or Bologna and replace him by some other "magistrate" at least for the time being. (Report of the P.P. and letter 400 of G.A. Milan April refer).

	ACCOMPLISHED
CIO	
→ DCIO	
Chief Counsel	
CIO	
Italian Section	
CLARKS	
1 JUN 1945	

44A

OFFICE OF THE SECRETARY OF DEFENSE

4092/1

Present:

- Col. J. H. ...
- ...
- ...
- ...

MEMORANDUM FOR THE SECRETARY

Jurisdiction of Extraordinary Courts of Appeals over Military Personnel

Letter 1047/5087 dated 28 May 1947 of HQ USAF is read. It contains the jurisdiction of military tribunals in a special jurisdiction which can be limited by an express provision only.

Such express exclusion was contained in the draft of MIL 142 but was dropped in its final text; therefore the legislation must have intended to preserve the jurisdiction over military personnel for offenses of collaboration, etc. It is noted that the persons called for an exclusive jurisdiction of Courts of Appeals because

- (a) Extraordinary Courts of Appeals are already in operation.
- (b) Military Tribunals in the North are irregularly constituted at the present time.
- (c) Civil jurisdiction would cause delay and doubts;

Agreed that

- (1) the Extraordinary Courts of Appeals will have exclusive jurisdiction over civilians and military personnel for offenses contemplated by MIL 142; military tribunals will adjudge all other offenses committed by persons normally within their jurisdiction;
- (II) no further legislative act is necessary to effect this interrelationship;
- (III) additional sections of Extraordinary Courts of Appeals shall be constituted if required in this connection; H. H. Boardman submits the suggestion of P. B. Tamm that if an amendment to MIL 142 is contemplated it should include a provision authorizing the President of Court of Appeal to appoint magistrates of lower grade than that of magistrates in Court of Appeal to preside over the Extraordinary Court of Appeals;
- (IV) H. H. Boardman to inform Procurement General before at the Court of Sessions Section of this agreement by a letter to be transmitted by Legal Sub-Committee; Legal Sub-Committee to inform all officers concerned in the North.

At this point, Procurement General...

Letter 10/5/57 dated 28 May 1945 of the Viceroy is read. It claims that the jurisdiction of military tribunals is a special jurisdiction which can be limited by an express provision only. Such express exclusion is contained in the draft of the 142 but is dropped in its final text; therefore the legislative proposal for amended to preserve the jurisdiction over military personnel for crimes of collaboration. It is, in fact, vehemently disagreed and states that whatever the special jurisdiction may be, it is not a special jurisdiction but an exclusive jurisdiction of Courts of Justice because

- (a) Extraordinary courts of Justice are already in operation.
- (b) Military tribunals in the North are irregularly constituted at the present time.
- (c) dual jurisdiction would cause delay and doubt.

Agreed that

- (i) the Extraordinary Courts of Justice will have exclusive jurisdiction over civilians and military personnel for offences contemplated by the 142; military tribunals will adjudicate all other offences committed by persons lawfully in their jurisdiction;
- (ii) no further legislative act is necessary to effect this intention;
- (iii) additional sections of Extraordinary Courts of Justice shall be constituted if required in this connection. E. C. Boeri submits the suggestion of E. C. Boeri that if an amendment to the 142 is contemplated it should include a provision authorizing the President of Court of Appeal to appoint a magistrate of lower grade than that of magistrate of appeal to preside over the Extraordinary Court of Justice. E. C. Boeri to inform Procuratore Generale Legare of the Court of Cassation Section of this agreement by a letter to be transmitted by legal Sub-Commission; legal Sub-Commission to inform all officers concerned in the North;
- (iv)

As this points Procuratore Generale Militare and E. C. Boeri withdrew.

2. President of the Investigation Commission for the North, Milan.

Col. BERNINI suggests that Sig. Vogliotti, retired Councilor of grade 2 in Turin, proposed for the Court of Cassation, should be used for the above office. Minister agrees and proposes to supply a grade 3 magistrate should Sig. Vogliotti not accept.

11.

2 =

3. Travel of officials of the Ministry to Brescia to bring
archives to Rome.

Col. BERRINI states that Sig. Parenti obtained a passport from (C
as a driver with the understanding that he will transport archives of
the Fascist Ministry from Brescia to Rome; upon arrival at Milan
Parenti disappeared. The Minister expresses his regrets.

MEETING CLOSED AT 10:00.

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Copy for file 4092/1/c

38A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4096/L.

WEB/pa.

1 Jun 45.

SUBJECT : Military Tribunals.

(Copy of St. Mark)

TO : Regional Commissioner, (Attn: R.L.O.),
LOMBARDIA Region.

38A

Alberto

1. Receipt of your LEG/5027 of 28 May and LEG/5033 of 29 May 1945 was had at 1130 hrs and 1145 hrs respectively this morning. In these circumstances it is hoped that you will accept our apologies for not having replied to your first letter before you wrote the second.

2. No agreement had been made between AC and the Italian Government as to the jurisdiction of the military tribunals, prior to the departure from Rome of the President of Cassation, except such as was made by Lt. Col. Hannaford (being thereunder duly authorized) with H.E. Tupini and H.E. Borsari. No other agreement has been made since.

3. It is the intention of this Sub-Commission to ensure that the Italian Government issue the necessary orders to prevent the assumption of jurisdiction by military courts in cases properly subject to the Courts of Assize. The Legal Sub-Commission agrees with you and the President that the present position is unsatisfactory, and that the Court of Assize should have full jurisdiction.

4. A meeting has been arranged for tomorrow with T. E. Tupini, Borsari and Boeri at which, it is hoped, a final solution will be reached. You will be notified of the result.

5. The reference to prisoners of war is not understood. A letter has already been written to AFHQ to which no answer has been received. A further letter will be sent. In the meanwhile

1

it occurs to me that an accused cannot claim that he is outside the jurisdiction of his own national courts on the grounds that his own national authorities should hand him over as a prisoner of war to another power. His prisoner of war rights, if any, only protect him against the detaining power, not against his own sovereign state.

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

42A

HEADQUARTERS ALLIED COMMISSION
APC 374
LEGAL SUBCOMMISSION

/rlp.
31 May 1945.

40/4092/1/L.

SUBJECT : Court of Cassation.

TO : Regional Commissioner (also: Regional Legal Officer),
EMILIA, ABRUZZA, PIEMONTE, LOMBARDIA and VENETIA Regions.

1. There is enclosed herewith (except to LOMBARDIA region) a copy of letter L/5038 of 28 May 1945 from LOMBARDIA region setting out procedure to be adopted for appeals in Court of Cassation.

2. In no circumstances will the Prime Presidents or the Procuratore Generale of the Court of Appeal of Trieste attend the meeting referred to in para. 7 of the letter or otherwise comply with the procedure. It is intended that the right of appeal in Venezia Giulia to the Court of Cassation shall be indefinitely suspended in all cases including those under DIL 142.

By command of Rear Admiral STORL:

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

Incl: COPY of letter L/5038 of 28 May 45.

file 4092/1
10/10/52

41A

HEADQUARTERS ARMY COMMISSION
AFV 394
LEGAL SUB-COMMISSION

/s/ry.
31 May 1945.

SUBJECT : Additional personnel for Special Section of Commission - Expiration of Registry.
TO : Regional Commissioner (Attm: Regional Legal Officer), Lombardy Region.

1. Reference is made to the proposal of the First President, Court of Appeal, Turin to appoint to the above section Capt. VALLIOTTI Giuseppe and Sella Giovanni.
2. Information has now been received that neither of the two registrars can be considered for the appointment. Sig. VALLIOTTI was promoted to grade 6 in his retirement and could not be used in this grade at the Section. Sig. SELLA was retired in grade 5 and could not appear to have any right to promotion to the required grade if recalled into service.
3. However, it occurs to me that the same Sig. VALLIOTTI (now at Turin Province, Turin Province) is available to provide over the section of the Provincial Expiration Commission referred in your 404/5073 of 28 May 1945. As he was apparently willing to go to Milan to sit on the Court of Expiration Section, he might accept an appointment in connection with expiration.
4. Will you explore this avenue confident that we ourselves shall have no stone unturned at this end.

By command of your Adjutant General

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

Copy to: HQ (Attm: RLO), Lombardy Region (our 404/5073 of 28 May refers);
File 404/5073/1/1.

X 404

40A

HEADQUARTERS 5TH DISTRICT
NO 394
LEGAL SUB-COMMISSION

3/mt.
30 May 1945.

15/1002/1/1.

SUBJECT : Memorial for Special Section of Cassation.

TO : Regional Commissioner (Attor Regional Legal Officer),
PESCARA Region.

1. Reference is made to the proposal of the First President, Court of Appeal, Turin to appoint to the above Section both VUCIQUOTI Giuseppe and ORRU Giovanni.

2. Information has now been received that neither of the two magistrates can be considered for the appointment. Sig. VUCIQUOTI was promoted to grade two on his retirement and could not be used in this grade at the Section. Sig. ORRU was retired in grade 5 and would not appear to have any right to promotion to the required grade 4 if recalled into service.

By command of Rear Admiral STONE:

af

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

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39A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

HAB/exp

AL/4002/1/L

30 May 1945

Subject: Court of Cassation

To : Regional Commissioner (Acting Regional Legal Officer),
EMILIA, LIGURIA, PIEMONTE and VENETIA Regions.

This is to inform you officially that the Special
Section of the Court of Cassation under D.L. No 148 has now
been formed and is in session in MILAN. All appeals to
cassation from the Special Courts of Assize should be referred
to it.

By Command of Rear Admiral STONE:

W. E. WHELAN,
Lieutenant,
Deputy Chief Legal Advisor.

Copy to: Regional Commissioner (Acting Regional Legal
Officer), LOMBARDIA Region.

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
APO 394
Legal Division

38A

REF.: L/5038

28 May 1945

SUBJECT : Court of Cassation - Procedure to be adopted
for appeals.

TO : H.Q. Allied Commissioner.
(Legal Sub-Commission)

1. In order to coordinate the activities of all Extraordinary Courts of Assizes with the Section of the Court of Cassation in Milan, it is proposed to convene in that City a meeting of all First Presidents and Procuratore Generale in function in Northern Italy.
2. The delays for filing appeals to Cassation are so short that if no uniform system can be devised the accumulation of cases will certainly be such as to prevent the Counsellors dealing with their work within the prescribed time limit.
3. Furthermore the President of the Section has requested that he be informed immediately an Extraordinary Court of Assizes starts functioning. As the Court of Cassation does not reform sentences, but simply quashes decisions of the lower Courts and orders that the case be retried by another Court of Assizes, it is important that a complete list of Courts of Assizes be supplied by other regions as soon as possible.
4. It has been agreed that quashed cases will be sent back for retrial to Courts within the same district as the one which pronounces the original sentence, in order to avoid loss of time, difficulties of transport etc.-
5. Would you please be good enough as to inform all regions concerned of the following :
 - a) that the Court of Cassation will open in Milan this week and that all appeals must be forwarded to the following address : - S.E. Presidente della Sezione di Cassazione

presso S.E. Il Primo Presidente,
Corte d'Appello - MILANO

- 2 -

- b) that the President of the Milan Section of Cassation be informed as soon as the Court of Assizes starts to function. This can be done through the First Presidents of each District of Court of Appeal. All facilities for dispatching such correspondence from one region to another should be afforded by AMG.
- c) that a meeting is about to be convened in Milan of all First Presidents and Procuratori Generali in order to agree on a uniform policy and procedure in regard to the functioning of the Extraordinary Courts of Assizes and their relation with the Court of Cassation.
6. As soon as this Division will be informed that P.Ps and P.Gs are able to travel to Milan, arrangements will be made to call up the meeting and lodging and rations provided for one day and one night.
7. For your information it is proposed to request the P.Ps and P.Gs of the following Courts of Appeal to attend :
First President and Procuratore Generale
(whether substantive or acting) of C.A. of Milan
- | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---------|
| " | " | " | " | " | " | " | " | " | Torino |
| " | " | " | " | " | " | " | " | " | Genoa |
| " | " | " | " | " | " | " | " | " | Brescia |
| " | " | " | " | " | " | " | " | " | Bologna |
| " | " | " | " | " | " | " | " | " | Venice |
8. In view of the conditions prevailing in Venezia Giulia it is not proposed to ask the P.P. and P.G. of the Court of Appeal of Trieste to attend. If the situation improves the necessary instructions and information can be forwarded to them through Venice Court of Appeal.

For the Regional Commissioner :

H.M. Dickie
H.M. DICKIE
W/Cdr. R.A.F.

Regional Legal Officer

P.S. Later it is hoped to install the Court of Cassation in the office of the former Republican Ministry of Justice in Milan, where some officials had been transferred from Rome.

3-1-1945

36A

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

/esp

30 May 1945

AG/4092/1/L

Subject : Trial of Vittorio Emanuele BASILE
To : Regional Commissioner (Attn: Regional Legal
Officer), LOMBARDIA Region

1. The High Commissioner for War Crimes is anxious that Vittorio Emanuele BASILE, Under Secretary of War in the Republican Government, be tried in the High Court of Justice and has made application to MILAN Court accordingly.
2. The application has been forwarded through Public Safety channels and will no doubt arrive in due course.
3. Para 3 of your LEG/5038 of 27 May 1945 refers.

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

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HEADQUARTERS
 ALLIED MILITARY GOVERNMENT
 LOMBARDIA REGION
 APO 394

REF.: LEG/5038

27 May 1945

SUBJECT : Courts of Assizes & Court of Cassation in Milan.
 TO : H.Q. Allied Commission - (Legal Sub-Commission)

1. Counsellors of Cassation have at last been billeted in the Hotel Commercio and thanks to Prof. Vassali's efforts have been authorized to join the mess of the Circolo Militare.
2. It is anticipated that they will start functioning ~~Tuesday~~ ^{as} Buffarini, whether sentenced to death or not, is alleged to have declared that he will contest the jurisdiction of the Court of Assizes and insist on being treated as a prisoner of war. He claims that he was captured in uniform having served as an artillery colonel of the Republican Army since September 43.
3. The case of Vittorio Emanuele Basile, Under Secretary of War in the Republican Government, appears to fall under the jurisdiction of the High Court of Justice. In view of the importance of his position and other facts which it would be too long to set out in this letter, it is suggested that H.E. Berlinguer be approached and given the opportunity of claiming the jurisdiction of the High Court over Basile's case. H.E. Berlinguer should be well aware of Basile's latest activities. The British Resident Minister concurs with this view. Basile is now detained in the "Carcere Militare" - 17 Via Crivelli, Milan.
4. You will find enclosed a list of members of the Republican Ministry of Justice. They will be suspended forthwith. On the other hand instructions are requested from the Ministry of Justice as to their future disposal and whether it is intended to try all or some of them and if so, under what jurisdiction.

↑ see 4082/3.

5. The two members of the Ministry Judges Zingole and Cesaroni have proceeded to Brescia and Cremona to take over all documents, archives etc of the former Ministry and the Court of Cassation. They expect to return Tuesday and will hand their report to this Division.

For the Regional Commissioner :

G. S. Hamner

H.M. DICKIE
W/CMD. R.A.F.
REGIONAL LEGAL OFFICER

Copy to : LEG/5027

LEG. DIVISION	
CEO	
CCO	<i>LM</i>
Chief Counsel	
C/O	
Station Clerk	
CLERKS	
21 MAY 1945	

HEADQUARTERS ARMED COMMISSION
APO 394
LEGAL SUB-COMMISSION

34A
/mt.
29 May 1945.

AC/1092/1/L.

SUBJECT : Judicial personnel for North Italy.
TO : H. B. The Minister of Pardon and Justice.

1. In confirmation of today's conversation with Dott. Benelli it is understood that the following 5 magistrates will be promoted at once to Consiglieri di Corte di Appello and assigned to the Court of Appeal Milan:

J. MARONE	Nicola
CHIABRIA	Fier Luigi
LINZI	Antonio
DE CARLES	Roberto
TRACCIANA	Niccolò

2. Sig. ATTICO Luigi will not return to the Court of Appeal, Milan.

3. Sig. MACSTRONE G. Maria and TRONBI Pietro will be promoted without delay and assigned to Court of Appeal, Turin, as consigliere and sostituto procuratore generale respectively.

4. It is furthermore understood that the Ministry is taking immediate steps to satisfy the personnel requirements as communicated by this Sub-Commission

of
A. P. THACKERAN,
Lt. Col.,
Italian Branch,
for Chief Legal Advisor.

Copy to: AC/1039/L.

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HEADQUARTERS ALLIED COMBAT IN
APO 394
LEGAL SUB-COMMISSION

AG/ 4092/1/L.

ES/1000
29 May 1945.

SUBJECT: Judicial Personnel for Milan.

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

1. Reference para 10 of your LEG/3038 of 25 May 1945.

2. In pursuance to your previous recommendation the Ministry prepared a decree for to-morrow Council of Ministers appointing Cav. Off. Ugo LEVI to Consigliere of Cassation for the Special Section of Milan. It was the intention of the Ministry to appoint Consigliere di Cassazione BERARDI Corradino of Roma to Sostituto Procuratore Generale di Cassazione for the Section at Milan. Sig. Berardi is ready to leave immediately for Milan. If you feel that Sig. Levi's services are urgently needed as Sostituto Procuratore Generale you might appoint him by AMG order and steps will be taken at the Ministry to have the order confirmed by a decree. If, on the other hand, you agree to Ministry's proposal advise this sub-Commission accordingly and arrangements will be made for Consigliere Berardi to go to Milan at once.

3. As for Cav. Off. Carlo GRAY the Ministry recommends that you appoint him provisionally to the P.M. of the Special Section by an AMG order which will be confirmed by appropriate decree of the Minister in due course.

4. Pursuant your request communicated to DCIA during his visit at your HQ the decrees promoting and assigning to Milan the following magistrates will be signed within the next few days:

- (a) Jannarone
- (b) Calabria
- (c) Janni
- (d) De Carlis
- (e) Trusontana

You will note that the name of PEPPE Marcello has been omitted. The Ministry points out that this magistrate, a member of the Operative Commission of the Ministry, has been doing exceptionally good work and become familiar with the operation problems; for this reason, he should for the present remain in service with the Ministry.

By command of Rear Admiral STONE:



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

Copy to: AG/4039/L

40921

32A

HEADQUARTERS EMILIA REGION
ALLIED MILITARY GOVERNMENT
APO 394

REF: RIX/LE/704BL/382

WIL/EP.
26 May 1945.

SUBJECT: Special Court of Assize (Bologna).

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

1. This is to advise you that the above court is fully constituted and functioning. There have so far been 48 denunciations. In 35 cases, the summary instruction has been completed and the cases are ready for trial. 7 denunciations were forwarded to other jurisdictions; in 2 cases, it is necessary to await the arrival of the prisoners from Florence, and one case was dismissed by the P.M. because no offence existed.

2. It is expected that the first trial will commence on 29 May 1945.

For the Regional Commissioner:



W. R. Levitt
WILLIAM R. LEVITT
Lt. Col. J.A.G.D.
Regional Legal Officer.

	CLO	
→	DCLO	
	Chf	
	CJO	
→	Italian	
	...	

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HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
APO 394
Legal Division.

31A
file

25 May 1945

4092/11 ✓
Ref.: LEG/5038

SUBJECT : Section of Court of Cassation in Milan.

TO : HQ Allied Commission - Legal Sub-Commission.

1. Six Counsellors and three Officials from the Ministry of Justice duly landed on Milan aerodrome on wednesday 23 inst. noon.
2. They were temporarily housed at the Diana Hotel. The first meeting with the Primo Presidente and the Procuratore Generale took place the same day in an atmosphere of optimism and cordiality that could not fail to impress favourably the few witnesses of this moving scene.
3. These high hopes were unfortunately dashed to the ground a few hours later. Upon returning to their Hotel the Counsellors were informed that they had half an hour to vacate their rooms as the Allied Military Authorities could not accept the presence of civilians in a military establishment.
4. Whereupon the Counsellors, escorted by representatives of this Division, the Primo Presidente, the Procuratore Generale and various other persons who apparently took an interest in the personal welfare of the delegation proceeded to see the Prefect.
5. At 2000 after a skilful resistance, under threats of reprisals and the most lavish promises, the Prefect finally gave in and produced a list of nine rooms in nine different hotels of the City, but no ration cards were available.
6. The delegation returned to the Albergo Diana in fairly good heart to transfer themselves to their various and somewhat uncomfortable new quarters. Unfortunately a new crisis developed when they were informed that they could not take their meals at the Diana unless they lived there.
7. Only the personal intervention of Colonels Poletti and Hancock prevented the Counsellors sleeping in the street last night.

- 2 -

8. The position today has not changed materially, as although ration cards have been obtained, the vacant rooms in the various hotels are now occupied by partisans and other respectable persons. The City Command is still adamant that the Counsellors must leave the Hotel forthwith.
9. In all probability, if the lodging question cannot be resolved tomorrow, the Counsellors will have to return to Rome. In this eventuality it will be necessary for the Minister to nominate local Counsellors to the Milan Section.
10. In the meantime, in agreement with the First President the names of two "Sostituti di Cassazione" are forwarded for immediate appointment by the Minister. Should he decline to do so, it is intended to appoint them by AMG order.
11. The three sections of the Court of Assizes are now functioning. In answer to the announcement of the press, over three thousand "denuncie" have been received, hence the necessity to strengthen the "Pubblico Ministero" of the Cassation also.
12. Six cases have been tried so far. Sentences varying from 12 to 30 years pronounced but no death penalty yet. However it is expected that Buffarini who will be tried on Monday will not escape the gallows.
13. In view of the acute lodging situation in Milan it has been suggested to requisition an hotel for the exclusive use of Italian officials who will no doubt be very numerous in the months to come.

G. G. H. H. H.
 H.M. DICKIE
 W/Comdr. R.A.F.
 Regional Legal Officer

P.S. Pending some such arrangement it is earnestly requested that no Italian legal personnel be sent or permitted to come to Milan unless they can make their own arrangements for accommodation and food.

LEG	INCOMMISSIONI
CLIO	
DICLO	
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CLIO	
1945	27 MAR 1945

Nominees for Pubblico Ministero
of Section of Cassation
Milan

1. Cav. Uff. Ugo Levi - già sostituto Proc. Gen. alla Corte d'Appello di Milano, esonerato dalla carica per l'applicazione delle leggi razziali.
2. Cav. Uff. Carlo Gray - sostituto proc. gen. Corte d'Appello di Milano.

to UJ
on 28 May

file Extracod
Cod. Bol Amz
APPUNTO

32A
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Esaminato il problema di una eventuale riduzione di termini per i procedimenti davanti le Corti straordinarie di assise, si osserva:

che il termine minimo di comparizione, stabilito dall'art. 405 del cod. di proc. pen. in giorni quindici, è stato già ridotto, per effetto dell'art. 13 del D.L.L. 22 aprile 1945 n.142, a giorni otto.

Una ulteriore riduzione non potrebbe essere fatta a meno di cinque giorni, tenuto conto dei termini correlativi stabiliti negli art. 415, 416 ecc. del codice di procedura per indicazione di testimoni da citare, richiamo di documenti, ecc.

In tale stato di cose, può apparire dubbia la convenienza di un apposito provvedimento legislativo al solo scopo di un'abbreviazione di tre giorni del termine, tenuto conto d'altra parte che, quando la Corte di assise straordinaria sarà in piena funzione, il presidente potrà fissare i dibattimenti, senza che fra l'uno e l'altro vi sia interruzione, provvedendo tempestivamente alla citazione degli imputati.

Roma, 18 maggio 1945.

[Handwritten signature] 72

16-

Mod. 1348 MG

29A

Ministero della Giustizia

UFFICIO SUPERIORE DEL PERSONALE

Roma, 18.5.1945

Off. 20
Prot. n. *1083*
Risp. al fo del 4.5.1945
N. AC/4100L

Alla Sottocommissione legale
Alleata

ROMA

OCCETTO: Sezione speciale della Cassazione dei ricorsi contro le decisioni delle Corti di Assise straordinarie.

7680 HE GIULIANO Michele *Baron* *Baron of Canale*
Genet 2017610

In relazione alla richiesta rivolta con la nota suindicata, si comunicano le complete generalità dei componenti la Sezione speciale della Corte Suprema di Cassazione istituita ai sensi dell'art. 16 del D.L.L. 22 aprile 1945 n. 142.

Sezione Speciale della Corte Suprema di Cassazione di Giustizia
SERENA MONGHINI-Antonio fu Francesco e di Borghesi Caterina

nato a Ravenna il 22.7.1880, presidente

Comune di Finalmaringo
PROFERTI Giorgio Maria Gerolamo Amedeo Melchiorre fu Giacomo e fu Alizeri Camillo nato a Finalmaringo (Genova) il 10.12.1878, Consigliere

VITALI Giovanni fu Luigi e fu Bellotti Giulia, nato a Castello Goffredo (Mantova) il 14.6.1880, Consigliere

TOESCA DI CASTELLAZZO Giulio fu Giocchino e fu Castellani Vittoria nato a Torino il 12.7.1879, Consigliere

GIOCOLI Leonardo, fu Vincenzo e fu Bruna Maria schiuma nato a Matera il 19.3.1886, Consigliere

BOIRACINE Vincenzo fu Ignazio e di Barcellona Giuseppina nato ad Agira (Enna) il 22.4.1880, Consigliere

Teo. G. T. Merz
11/12/1945

Ferrari
15/5/53

Uff. 20
Prot. n. *18-5-945*
Risp. al fo del 4.5.1945
N. AC/4100L

Alla Sottocommissione legale
Alleata

ROMA

OCCETTO: Sezione speciale della Cassazione nei ricorsi contro le decisioni delle Corti di Assise straordinarie.

*7680 HE GIULIANO Michele Dechum presso il Cavaliere
Roma del 7610*

In relazione alla richiesta rivolta con la nota suindicata, si comunicano le complete generalità dei componenti la Sezione speciale della Corte Suprema di Cassazione istituita ai sensi dell'art. 16 del D.L.L. 22 aprile 1945 n. 142.

*Teubert
11/12/45*
SERENA MONGHINI Antonio fu Francesco e di Borghesi Caterina nato a Ravenna il 22.7.1880, presidente

Comune di Genova
PROPERZI Giorgio Maria Gerolamo Amedeo Melchiorre fu Giacomo e fu Alizeri Camillo nato a Finalmarina (Genova) il 10.12.1878, Consigliere

*Ferrari
14/11/45*
VITALI Giovanni fu Luigi e fu Bellotti Giulia, nato a Castello Goffredo (Mantova) il 14.6.1880, Consigliere

*Ferrari
15/8/53*
TOESCA DI CASTELLAZZO Giulio fu Gioacchino e fu Castellani Vittoria nato a Torino il 12.7.1879, Consigliere

GIOCOLI Leonardo, fu Vincenzo e fu Bruna Maria schiava nato a Matera il 19.3.1888, Consigliere

BOERAGINE Vincenzo fu Ignazio e di Barcellona Giuseppina nato ad Agira (Enna) il 22.4.1880, Consigliere

*Ferrari
14/11/45*
BADIA Giuseppe di Giovanni e fu Miele Maria Benedetta nato in Andretta (Avellino) il 7.11.1887, Consigliere

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Per. Part.
486633

CHIERRA Vincenzo di Riccardo e fu Ferrante Antonietta,
nato ad Andria (Bari) il 22.7.1890, Consigliere-

Violante Carlo *Consigliere di Casimiro, Consigliere di
Casimiro*

2 members

3 members of 1st

PEL MINISTRO

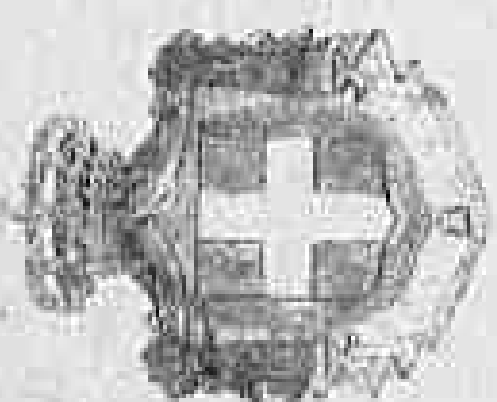
*Upper segment of Italy
represented by Italy*

*From Rome to Britain
to determine their duties on the Supreme
Court of Christian Secular*

Mod. 1348 MG.

29B

5092/1



Ministero di Grazia e Giustizia

UFFICIO SUPERIORE DEL PERSONALE

Roma, 18.5.45

Uff. 20

Prot. n. 18969

0638

Alla Sottocommissione Legale
Alleata

*file
Sottocommissione Legale*

ROMA

OCCORRENZA: Magistrati per le Corti di Assise straordinarie.

In ordine alla richiesta, oralmente rivolta da codesta Sottocommissione, per una immediata designazione dei magistrati necessari per il funzionamento delle Corti di Assise straordinarie, previste dal D.L.L. 32 aprile 1944 n. 142, si fa presente che la nomina di tali magistrati è devoluta, in virtù degli art. 6 e 10 del suddetto D.L.L., ai Capi di Corte; onde, dato anche che trattasi di regioni ancora amministrare dall'A.M.G., e non collegate con questa capitale da regolari comunicazioni postali, le richieste per la sollecita composizione delle Corti di cui trattasi potrebbero essere più utilmente rivolte, anzicchè al Ministero, direttamente ai vari Capi di Corte.

D'altra parte, poichè sono già a disposizione di codesta Sottocommissione i magistrati, appartenenti ad uffici dell'Italia settentrionale, e qui rimasti bloccati, per il funzionamento delle Corti di Assise straordinarie potranno essere anche impiegati, ove codesta

Off. 20

Prot. n. 18969

0638

Roma, 18.5.45

Alla Sottocommissione Legale
Alleata

R O M A

file
Magistrati per le Corti di
Assise straordinarie.

OGGETTO: Magistrati per le Corti di
Assise straordinarie.

In ordine alla richiesta, oralmente rivolta da codesta Sottocommissione, per una immediata designazione dei magistrati necessari per il funzionamento delle Corti di Assise straordinarie, previste dal D.L.L. 22 aprile 1944 n. 142, si fa presente che la nomina di tali magistrati è devoluta, in virtù degli art. 6 e 10 del suddetto D.L.L., ai Capi di Corte; onde, dato anche che trattasi di regioni ancora amministrare dall'A.M.C., e non collegate con questa capitale da regolari comunicazioni postali, le richieste per la sollecita composizione delle Corti di cui trattasi potrebbero essere più utilmente rivolte, anzicchè al Ministero, direttamente ai vari Capi di Corte.

D'altra parte, poichè sono già a disposizione di codesta Sottocommissione i magistrati, appartenenti ad uffici dell'Italia settentrionale, e qui rimasti bloccati, per il funzionamento delle Corti di Assise straordinarie potranno essere anche impiegati. - ove codesta Sottocommissione ne ravvisi l'opportunità, e ritenga di

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poter provvedere al trasporto al Nord, - quelli di tali magistrati che rivestono il grado prescritto.

Di tali magistrati si unisce elenco.

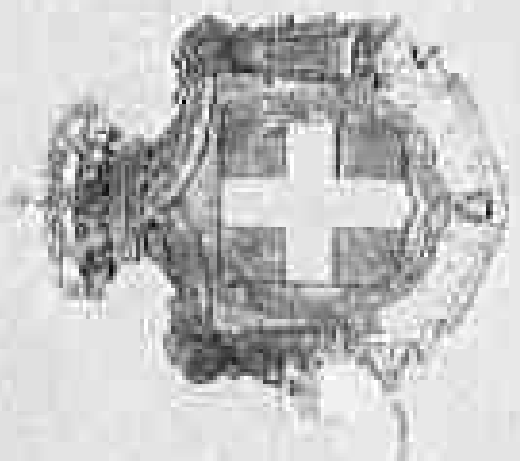
Comunque, allo scopo di far sì che il funzionamento delle Corti d'Assise straordinarie possa aver luogo senza intralcio per gli altri servizi delle Corti, il Ministero provvederà da parte sua a che un'adeguata aliquota dei magistrati, la cui nomina al grado Vc è imminente, venga, all'atto della nomina stessa, destinata ad uffici dell'Italia settentrionale ove risultino vacanti posti di tale grado.

PEL MINISTRO

Ad Mancini

M. 1378-MG

40924
Ministero di Giustizia



UFFICIO SUPERIORE DEL PERSONALE

Uff. 2°
Prot. n. 4833/3969
Risp. al fo del 4.5.1945
M. AC/4100L
Roma, 18.5.1945
Alla Sottocommissione legale
Alleata

ex parte
C. S. G. L.

ROMA

OGGETTO: Sezione speciale della Cassazione per i ricorsi contro le decisioni delle Corti di Assise straordinarie.

In relazione alla richiesta rivolta con la nota suindicata, si comunicano le complete generalità dei componenti la Sezione speciale della Corte Suprema di Cassazione istituita ai sensi dell'art. 16 del D.L.I. 22 aprile 1945 n. 142.

SERENA MONCHINI Antonio fu Francesco e di Borghesi Caterina nato a Ravenna il 22.7.1880, presidente

PROPERZI GIORGIO Maria Gerolamo Amedeo Melchiorre fu Giacomo e fu Alizeri Camillo nato a Finalmarina (Genova) il 10.12.1878, Consigliere

VITALI Giovanni fu Luigi e fu Bellotti Giulia, nato a Castel Goffredo (Mantova) il 14.6.1880, Consigliere

TOESCA di CASTELLAZZO Giulio fu Giacchino e fu Castellani Vittoria nato a Torino il 12.7.1879, Consigliere

GIOCOLI Leonardo, fu Vincenzo e fu Bruna Maria Schiama nato a Matera il 19.3.1888, Consigliere

BORRAGINE Vincenzo fu Ignazio e di Barcellona Giuseppina nato ad Agira (Enna) il 22.4.1880, Consigliere

BADIA Giuseppe di Giovanni e fu Miele Maria Benedetta nato

Uff. 2°
 Prot. n. 2533/2963
 Resp. al fo del 4.5.1945
 N. AC/4100L

Roma, 18.5.1945

Alla Sottocommissione legale
 Alleate

ROMA

*ex parte
 Cassa*

OGGETTO: Sezione speciale della Cassazione per i ricorsi contro le decisioni delle Corti di Assise straordinarie.

In relazione alla richiesta rivolta con la nota suindicata, si comunicano le complete generalità dei componenti la Sezione speciale della Corte Suprema di Cassazione istituita ai sensi dell'art. 16 del D.L.L. 23 aprile 1945 n. 143.

SERENA MONGHINI Antonio fu Francesco e di Borghesi Caterina nato a Ravenna il 23.7.1880, presidente

PROPERZI Giorgio Maria Gerolamo Amedeo Melchiorre fu Giacomo e fu Alizeri Camillo nato a Finalmarina (Genova) il 10.12.1878, Consigliere

✓ **VITALI** Giovanni fu Luigi e fu Bellotti Giulia, nato a Castel Goffredo (Mantova) il 14.6.1880, Consigliere

✓ **TOISCA** di CASTELLAZZO Giulio fu Giocchino e fu Castellani Vittoria nato a Torino il 12.7.1879, Consigliere

GIOCOLI Leonardo, fu Vincenzo e fu Bruna Maria Schiama nato a Matera il 19.3.1888, Consigliere

BORRAGINE Vincenzo fu Ignazio e di Barcellona Giuseppina nato ad Agira (Enna) il 22.4.1880, Consigliere

✓ **BADIA** Giuseppe di Giovanni e fu Miele Maria Benedetta nato in Andretta (Avellino) il 7.11.1887, Consigliere

CHIETTA Vincenzo di Riccardo e fu Ferrante Antonietta,
nato ad Andria (Bari) il 22.7.1890, Consigliere-

PEL MINISTRO

Wang

Giuliano Micheli. Pres.

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Vidanti Carlo.



~~File~~

QUARTERS UNITED COMMISSION
APO 394
LEGAL SUB-COMMISSION

28A

ES/mt.
23 May 1945.

AC/4092/1/L.

SUBJECT : Special Section of Court of Cassation.
TO : Regional Commissioner (Attn: Regional Legal Officer),
EMILIA Region.

1. References your RI/IS/704.1/299, of 19 May 1945.
2. The Special Section of the Court of Cassation has already been constituted with the seat at Milan. For this reason it is not intended for the time being to use the services of Dott. SAVAGLIO.

By command of Rear Admiral STONE:

cep
A. H. THACKERAY,
Lt. Col.,
Italian Branch,
for Chief Legal Advisor.

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4092/1-19

27A

HEADQUARTERS EMLIA REGION
ALLIED MILITARY GOVERNMENT
APO 394

REF: RIX/IE/704.1/299

WHI/alg
19 May 1945

SUBJECT: Special Section of Court of Cassation (D.L.142)

TO: Headquarters ,AC. - APO 394 (for Deputy Chief legal Advisor)

10A

1. reference your AC/4092/L, 5 May 1945, enclosed herewith are copies of letters from primo presidente of Court of Appeal of Bologna and procuratore generale of Bologna together with translations prepared at this Headquarters.

2. The only possible appointment to this Court appears to be Dott. Umile Savaglio. The primo presidente's letter sets forth the circumstances as to his status and availability. I will appreciate your advice in due course as to whether you intend to use this judge.

HEADQUARTERS
22 MAY 1945
AC

For the regional Commissioner

W. H. Levit
WILLIAM H. LEVIT.
Lt. Col. J.A.G.D.
Regional legal officer.

Encls : as above

LEGAL SUB-COMMISSION	
CLO	
DCLO	
Chief Counsel	
CIO	
Italian Section	
CL RKS	

23 MAY 1945

66

R. CORTE D'APPELLO DI BOLOGNA

Gabinetto del primo presidente

No. 279

OGGETTO : Corte di Cassazione ; Sezione speciale di Milano

Bologna, 18 Maggio 1945

All'Ufficio Regionale Legale del Governo Militare Alleato - Bologna

Nessuno dei magistrati di grado IV di questa Corte d'Appello e', come ora dire', disponibile per la formazione della sezione speciale della Cassazione che avra' sede in Milano.

nei quattro magistrati col detto grado (presidenti di sezione), il grand'ufficiale Bianchedi Camillo e' da tempo assente dall'ufficio per malattia; il comm. Vito Sangiorgio, oltre che dalle sue funzioni alla Corte, e' impegnato dalla conferenza di presidenza della commissione di epurazione del personale universitario; il comm. Alessi Adolfo, a prescindere dalla posizione che potrebbe essere conseguente al fatto che la sua promozione e' avvenuta dopo l'8 settembre, non puo' essere distolto dall'ufficio di presidente delle Corti di Assise ordinarie, che continuera' a disimpegnare anche se dovra' riprendere la sua precedente posizione di consigliere d'Appello di questa Corte.

L'unico a cui potrebbe pensarsi e' il dott. Mile Savaglio, attualmente presidente delle IV sezione penale.

Egli fu bensì promosso posteriormente all'8 settembre, ma dopo aver vinto il concorso indetto ed espletato con le vecchie norme, si che la sua promozione non potra' non essere ratificata, onde, anche se la sua promozione dovra' considerarsi caducata in base al decreto leg. lucerenziale 5 ottobre 1944 n. 249, io credo che il Comandante Alleato potrebbe con tutta tranquillita' emettere un provvedimento per cui il Savaglio fosse mantenuto nella sua posizione attuale di magistrato di grado IV.

Nonche' egli da me ripetutamente interpellato ha insistito a prospettarmi come condizioni di famiglia gli impediscano di accettare un incarico che anche saltuariamente lo ponesse nella necessita' di assentarsi da Bologna, onde non mi resta che limitarmi a riferire questa sua dichiarazione per quel conto che si riterra' di farne.

IL PRIMO PRESIDENTE
(G. Carboni)
s/G. Carboni

ROYAL COURT OF APPEAL OF BOLOGNA

SUBJECT : Court of Cassazione ; Special section at Milan.

18 May 1945.

None of the magistrates of the fourth grade at this court of Appeal is available to form the special section of the Cassazione in Milan, as I shall explain.

Of the four magistrates who have attained this grade (sectional presidents), Cr. Off. BIANCHEDI Camillo has been ill and absent from the office for a long time; comm. Vito SANGIORCIO, as well as being busy on court work, is fully occupied as president of the Ppuration Commission for screening the University staff; comm. PISSO Adolfo, apart from the fact that he was promoted after 8 September, cannot be removed from his office as president of the ordinary courts of Assize, which he will continue to occupy even if he has to resume his previous position of consigliere d'Appello at this Court.

The only possibility would be dott. Ubaldo SAVAGLIO, who is now the president of the 4th Criminal Section.

It is true that he was promoted after 8 Sept. 43, but the competitive examination he passed was held according to all the old established rules, so the promotion is certain to be ratified.

So I think that, even if his promotion should be considered null and void under D.L. 5 October 1944, No. 249, I think AMG could safely issue an order maintaining Savaglio in his present position as a grade 4 judge.

However, I have often spoken to him about the matter, and he has always insisted on illustrating to me how his family conditions prevent him from accepting a post which might mean his leaving Bologna even from time to time. All I can do, therefore, is advise you of this attitude of his, in order that you may act, you think best.

THE PRIMO PRESIDENTE

(G. CARBONI)

s/G. Carboni

PROCURA GENERALE DEL REGNO BOLOGNA

no. 570

Bologna, 16 maggio 1945

OGGETTO : sezione speciale della Corte di Cassazione.

Signor Colonello WILLIAM LEVIT.
Capo ufficio legale Regionale
BOLOGNA - Palazzo d'Accursio

LA S.V. conosce già la deficienza di magistrati negli uffici delle procure del Regno comprese nel Distretto di questa Corte di Appello e però si renderà ben conto come non sia possibile prelevarne alcuno per essere assegnato come sostituto procuratore generale presso la Istituzione sezione speciale di Corte di Cassazione in Milano.

Inoltre i sostituti procuratori generali presso la Corte di Cassazione debbono essere di quarto grado, almeno normalmente, di magistrati di quarto grado negli uffici del pubblico ministero del distretto di questa Corte non ve ne è che uno, e cioè il dott. Giuseppe Giorgi, addetto quale avvocato generale a questa procura. È indispensabile vi resti essendo a lui affidati tutti gli affari civili ed amministrativi di competenza di questo ufficio e avendo il dovere di sostituire il Procuratore Generale in ogni evenienza.

IL PROCURATORE GENERALE

F.to Carneroli

63

PROCURA GENERALE DEL REGNO - BOLOGNA

16 May 1945

Subject : Special Section of Court of Cassazione

You are well aware of the shortage of magistrates in the procura del regno offices coming under the control of this Court of Appeal and you will therefore realize that it is impossible to remove any to act as Sostituto procuratore generale at the special section of the court of Cassazione now being set up in Milan.

Besides, Sostituti procuratori generali at the Court of Cassazione must normally have attained at least the fourth grade. Now we only have one prosecutor of the fourth grade in this district, Dott. Giuseppe Giorgi, who is the Avvocato generale at my procura. It is indispensable that he stay, as all the civil and administrative work of the office is in his hands, and he has to be on the spot to take the procuratore generale's place in any emergency.

THE PROCURATORE GENERALE
s/Carnaroli.

4092/11 ✓

26A

HEADQUARTERS
PIEMONTE REGION
ALLIED MILITARY GOVERNMENT
APO 394

Office of the Regional Legal Officer

16 May 1945

PR/LE/422

SUBJECT: Special Section of Court of Cassation.

TO : A.C. Hq., Legal Sub = Commission
(through S C A O 4th Corps).

10A

1. Legal Sub = Commission letter AC/4092/L of 5 May requested a list of available nominees recommended for appointment to subject as president, consigliere and sostituto procuratore generale.

2. In view of the fact that any of such nominees must be at least grade LV, and in view of the further fact that judges must be supplied for the special Courts now being instituted, there are no suitable nominees known in Piemonte Region for any of the offices.

3. Many otherwise qualified personnel are available who have been removed from office by request of C.L.N., but, as such persons' removal was because of alleged Fascist leanings, it is obvious that they would not be suitable nominees.

61

By order of Col. Marshall.

BC
Ch
Cl
lcl
Cl

Edwin J. Mercer.
Lt. Col. Ord.
Regional Legal Officer.

EJM/AR.

23 May 1945

25A

~~file~~
10/1892/1/1.

URGENT
HEADQUARTERS ALLIED COMMISSION
ART. 394
LEGAL SUB-COMMISSION

Art/Int.
23 May 1949.

SUBJECT : Corti straordinaria di Assise.
TO : H.E. The Minister of Pardon and Justice.

1. Confirming this morning's telephone conversation (Col. THORNTON - Dott. BORGHI) the attention of this Sub-Commission has been urgently drawn to what appears to be a serious lacuna in the provisions for the machinery of prosecution under Art. 10 of P.L. No. 142.
2. In effect although under sub-para 2 the CUM may delegate advocates to act as prosecutors, it appears that the practitioners so selected are reluctant to appear because there is no provision made for the payment of fees.
3. It is obvious that if this difficulty cannot be overcome the working of the Courts may be considerably impaired, and for this reason Your Excellency is asked to give this matter immediate consideration so that prompt action may be taken to overcome the difficulty.

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

Copy to: CA See for info.

4092/1

25B

E X T R A C T OF APPENDIX "A"

LETTER FROM SENIOR OFFICER TO PRESIDENT DATED 20 MAY 1945.

I. LAW & ABILITY

ACTION BY
Legal Sub-Commission

(a) Col. Levitt wants to know what provision is being made for payment of prosecutors in the Peoples Courts. They are naturally reluctant to appear without fee.

HEADQUARTERS
 WAZIRI REGION
 ALLIED MILITARY GOVERNMENT
 APC 354

HOW/JO
 31 May 1945.

TO : All Provincial Commissioners (for Legal Officers).

SUBJECT: Extraordinary Court of Appeal.

File No: HALL/LL/Reg/C/03.1.

1. I think the moment is opportune to bring to the attention of all P.L.Os, a matter which is causing some degree of concern.
2. According to reports hitherto received, a large number of persons in every province are at present in gaol, where they were placed by the Partisans at the time of the liberation.
3. Many of these will no doubt be brought up for trial in due course before the Extraordinary Courts of Appeal. There must be many, however, who were thrust into gaol in the heat of the moment, and against whom it is unlikely that any charges will ever be proved.
4. It must, I think, be the constant duty of A.M.S. to ensure that in the Occupied Territory prisoners are not kept in gaol without trial for one moment longer than is absolutely necessary. Detention in gaol without trial is the negation of those principles of personal liberty, for which the United Nations have been fighting for so long.
5. P.L.Os should therefore keep constantly in view, and impress upon the judicial officials within their provinces, the vital importance of speedy inquiry into the individual cases of those who are now in gaol. Persons against whom no charges have been or can be laid, or against whom there is no hope of securing a conviction, should be released at the earliest possible opportunity. Local C.S.L.N. should of course be given every opportunity of putting forward charges against those who are in gaol, and any charges so made must be subjected to the fullest investigation. But the vital importance of speed in conducting such investigation cannot be stressed too strongly. Already many persons have been in jail, untried and without charges, for quite a long time. Protection of the innocent is just as important as punishment of the guilty.
6. In connection with the above it is necessary to issue a warning on two subjects. The first is that it is necessary to issue

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1. I think the moment is opportune to bring to the attention of all P.L.Os, a matter which is causing some degree of concern.
2. According to reports hitherto received, a large number of persons in every province are at present in Gaol, where they were placed by the Partisans at the time of the liberation.
3. Many of these will no doubt be brought up for trial in due course before the Extraordinary Courts of Assize. There must be many, however, who were thrust into Gaol in the heat of the moment, and against whom it is unlikely that any charges will ever be proved.
4. It must, I think, be the constant duty of A.P.O. to ensure that in the Occupied Territory prisoners are not kept in Gaol without trial for one moment longer than is absolutely necessary. Detention in Gaol without trial is the negation of those principles of personal liberty, for which the United Nations have been fighting for so long.
5. P.L.Os should therefore keep constantly in view, and impress upon the judicial officials within their provinces, the vital importance of speedy inquiry into the individual cases of those who are now in Gaol. Persons against whom no charges have been or can be laid, or against whom there is no hope of securing a conviction, should be released at the earliest possible opportunity. Local C.A.L.O. should of course be given every opportunity of putting forward charges against those who are in Gaol, and any charges so made must be subjected to the fullest investigation. But the vital importance of speed in conducting such persons have been in jail, untried and without charges, for quite a long time. Protection of the innocent is just as important as punishment of the guilty.
6. In connection with the above it is necessary to issue a warning on two subjects. The first is that all proposed releases should be cleared with the appropriate Allied Security Organizations. Those who are required by the Allies for interest on Security grounds will not of course be released, but must be evacuated as promptly as possible through the proper channels. The second point to guard against is the trial

before either Italian or A.S. Courts of any persons entitled to be treated as prisoners of war. Persons who are entitled to be treated as such - i/e. members of organized fighting formations who have surrendered to the Allies - must not be tried, but should be promptly evacuated through P.C. channels. Such persons, if there are any, ought never to have been put in gaol at all.

7. I have suggested to the Procuratore Generale of the Court of Appeal of Venice that he issue a directive, in terms similar to the above, to all judicial personnel under his authority. It is hoped that such a directive, coupled with constant pressure from P.L.O., will ensure that all Italian judicial personnel are kept alive to the responsibilities which lie upon them in connection with this matter.

A. C. Lindner

Colonel,
Regional Legal Officer,
Venezia Region,

and

Junior Legal Officer, AID, 3th Army.

Copies to:-

✓ Chief Legal Adviser, Legal Sub-Commission, HQ, AC.
Procuratore Generale, Court of Appeal of Venezia.

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7. I have suggested to the Procuratore Generale of the Court of Appeal of Venice that he issue a directive, in terms similar to the above, to all judicial personnel under his authority. It is hoped that such a directive, coupled with constant pressure from P.L.Gs., will ensure that all Italian judicial personnel are kept alive to the responsibilities which lie upon them in connection with this matter.

H. C. Linker

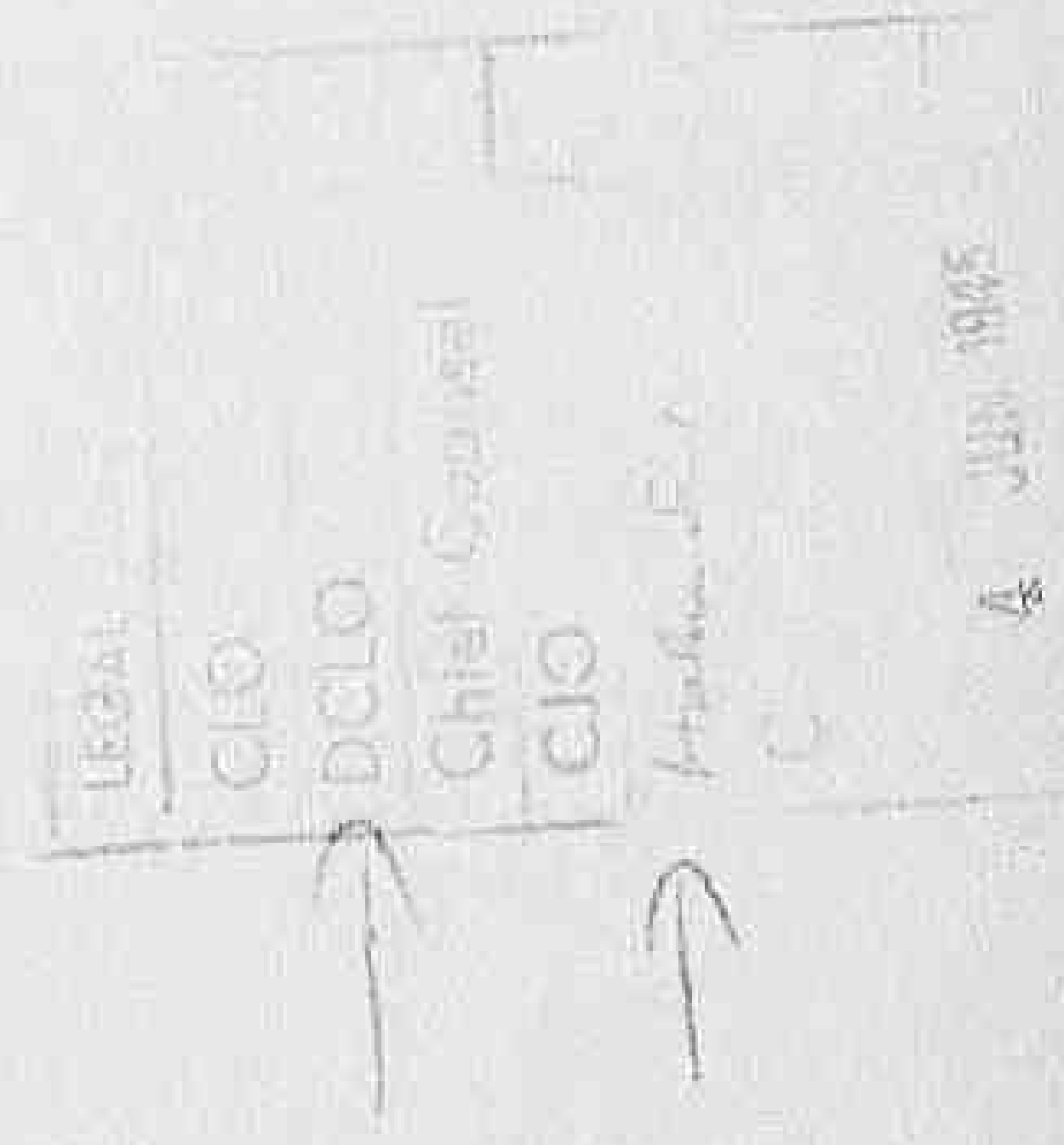
Colonel,
Regional Legal Officer,
Venetian Region,
and

Senior Legal Officer, AMB, 5th Army.

15

Copies tot-

✓ Chief Legal Adviser, Legal Sub-Commission, HQ, SC.
Procuratore Generale, Court of Appeal of Venezia.



A JUN 1945

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
APO 394
Legal Division

REF.: LEG/5038

31 May 1945.

SUBJECT : Extraordinary Courts of Assizes and Section of
Court of Cassation.TO : H.Q. ALLIED COMMISSION.
(Legal Sub-Commission).

1. More difficulties have developed regarding the interpretation of DLE 142 and the position of the Court of Cassation. These are both technical and practical.
2. The ~~old~~ Counsellors of Cassation, with the exception of President Giuliano (who is a judge of the highest moral standing and extremely competent) and Consigliere Toesca (who is a piedmontese) complain with some reasons of the following :-
3. They state that they were sent by the Minister to Milan under false pretences. They were requested to remain there a fortnight and provided themselves accordingly. Now it appears that they may have to stop in Milan for months. Two of them were Presidents of Commission of Eputation. They say that they have left their work in obedience and wish to return for a few days to equip themselves and hand over their offices.
4. Materially they live in the most difficult conditions. Third class hotel, no transport, hardly sufficient rations etc. While food in the country is cheap and plentiful, in Milan it is extremely scarce and these old men had no wife or servant to go to the black or white market in order to improve their daily diet. Vassali has been spending the whole morning trying to increase their rations through Sepral.
5. It is much regretted that the first suggestion of P.P. ME Cartesegna to appoint local officials has not been followed. It is anticipated that some of the Counsellors will have to be allowed to return to Rome and the work of the Section

will thus be seriously affected.

Would you kindly approach the Minister and request that at least three "Presidenti di Sezione" of the Court of Appeal of Milan be appointed to the local Court of Cassation, in addition to Levi and Gray.

6. To date the Section of Cassation has been officially notified of three recourses. No decision has yet been rendered.
7. The other difficulty is technical. Under D.L.L.142 (art.13) all delays for the pretrial investigations are cut by half. Art. 17 deals with the time limits for appeals, depositing the sentence and decision of Cassation.
8. However under Art. 533 of the Code of Penal Procedure it is set out that "The Registrar of the Court of Cassation, upon receipt of the sentences (atti) at the Registry, shall notify Counsel for the defense that upon receipt of such notification, a time limit of fifteen days is allowed to ~~him~~ counsel for the examination at the Registry of all documents and deeds therein deposited, that he may make copies and present new documents."
9. The time limit under this article applies, as you will see, to all appeals made by the "Pubblico Ministero" against a too lenient or irregular sentence. Three of these have already been deposited, as previously stated.
10. Nothing is said in D.L.L.142 of shortening or suppressing the time limits under Art. 533. The President of Cassation is reluctant to make a decision in contradiction with long established procedure without an interpretation from the Ministry or an addendum to the existing decree.
11. Would you be good enough to request the Minister to take up this point immediately in order to avoid further delays and congestion.

For the Regional Commissioner:

H.M. Dickie
 H.M. DICKIE
 W/Comdr., R.A.F.
 Regional Legal Officer.

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✓

HEADQUARTERS
PIEMONTE REGION
ALLIED MILITARY GOVERNMENT
APO 394

Office of the Regional Legal Officer

29 May 1945.

PR/LE/427.

SUBJECT : Presidents of Extraordinary Courts of Assize.
TO : Hq., A.C., APO 394
Attn. Legal Sub-Commission (O i/ch Italian Courts)

1. Attached is copy letter from First President of Court of Appeals, Piemonte re subject and copy of reply of this Hq. thereto.

2. Should any action be initiated as suggested in the last sentence of the letter of the First President, may this Hq. be advised please.

By order of Col. Marshall.

LEGAL SUB-COMMISSION
CIO
DCLW
Chief
CH
EJM/CB

→

Edwin J. Mercer
Edwin J. Mercer
Lt. Col., Ord.
Regional Legal Officer. 34

Inc. 1. Letter from First Pres. Court of Appeals re above mentioned subject.
2. Letter from R.L.O.

(51R)

RS/LA/221.

22 May 1948.

SUBJECT : Presidents of Extraordinary Courts of Assize.
 In re of 1/20 Italian Courts, Piemonte.

1. The suggestion that A.M.G. approve the appointment of magistrates of grade 5 to exercise the functions of grade 5, so that such judges could be appointed as President of the Extraordinary Courts, is not favorably regarded by this Hq.

2. D.L.L. N° 142 has been implemented by A.M.G. in Piemonte Region. Passing the question of the legal power of A.M.G. to alter any of the provisions of such law after so ordering its implementation, it is against our policy so to do.

3. Copy of the letter has been sent to Legal Sub-Commission for information and action if thought advisable.

4. Please transmit these views to the Primo Presidente.

By order of Col. Marshall.

53

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

RS/LA/221

C O R T E D ' A P P E L L O D I T O R I N O
P R I M A P R E S I D E N Z A

510

OGGETTO: Corti d'Assise straordinaria.

Prot. N. 401.

Torino, li 25 Maggio 1945.

Allegati N.

Risposta a Nota del

N.

On.le GOVERNO MILITARE ALLEATO
Regione del Piemonte
Divisione Legale APO 394

T O R I N O

82

Giusta l'art. 6 del Decreto L. 22/4/945 N° 142, il Presidente delle Corti straordinarie d'Assise deve essere nominato dal Primo Presidente fra i magistrati di grado non inferiore a quello di Consigliere di Corte d'Appello.

Tale esigenza mi ha posto e mi pone in condizioni gravi, di fronte alle esigenze di servizio, data la scarsa disponibilità di magistrati, e data la necessità di destinare alle funzioni Presidente della Corte d'Assise magistrati particolarmente idonei alla bisogna.

Se codesto Comando ritenesse che la lettera della norma potesse essere superata con il rilievo che l'applicazione di un magistrato di grado 6° a funzioni di grado 5° si intendesse legittimare la mia destinazione di detto magistrato anche alla Presidenza della Corte d'Assise, la questione resterebbe risolta. Se invece fosse diverso l'avviso di codesto Comando, mi permetterei prospettare al Comando stesso l'opportunità di un provvedimento di carattere legislativo che mi autorizzasse alla nomina di Presidenti delle Corti d'Assise straordinarie anche fra i magistrati di grado 6°.

IL PRIMO PRESIDENTE

D.R. Peretti-Griva

ADMINISTRATIVE APPEAL COMMISSION
 AND
 LEGAL SUB-COMMISSION

ES/t.
 5 June 1945.

AC/4092/1/L.

SUBJECT : Extraordinary Courts of Assize - Time limits in proceeding on appeal.

TO : Regional Commissioner (Att: Regional Legal Officer),
 BOERNEIA Region.

1. Reference para 7-11 of your LEO/5038 dated 31 May 1945.
2. The view of the Ministry set out in the enclosed memorandum of Eoc. Assariti should assist the President of the Section of Cassation in overcoming his doubts as to the interpretation of DLL 112.

By command of Rear Admiral STONE:

W. E. WRIGHT,
 Colonel
 Chief Legal Advisor.

Incl.

+51

4/22/45

49A

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
APO 394
Legal Division

REF.: LEG/5048

SUBJECT : Special Courts of Assize.

TO : H.Q. Allied Commission
(Legal Sub-Commission)

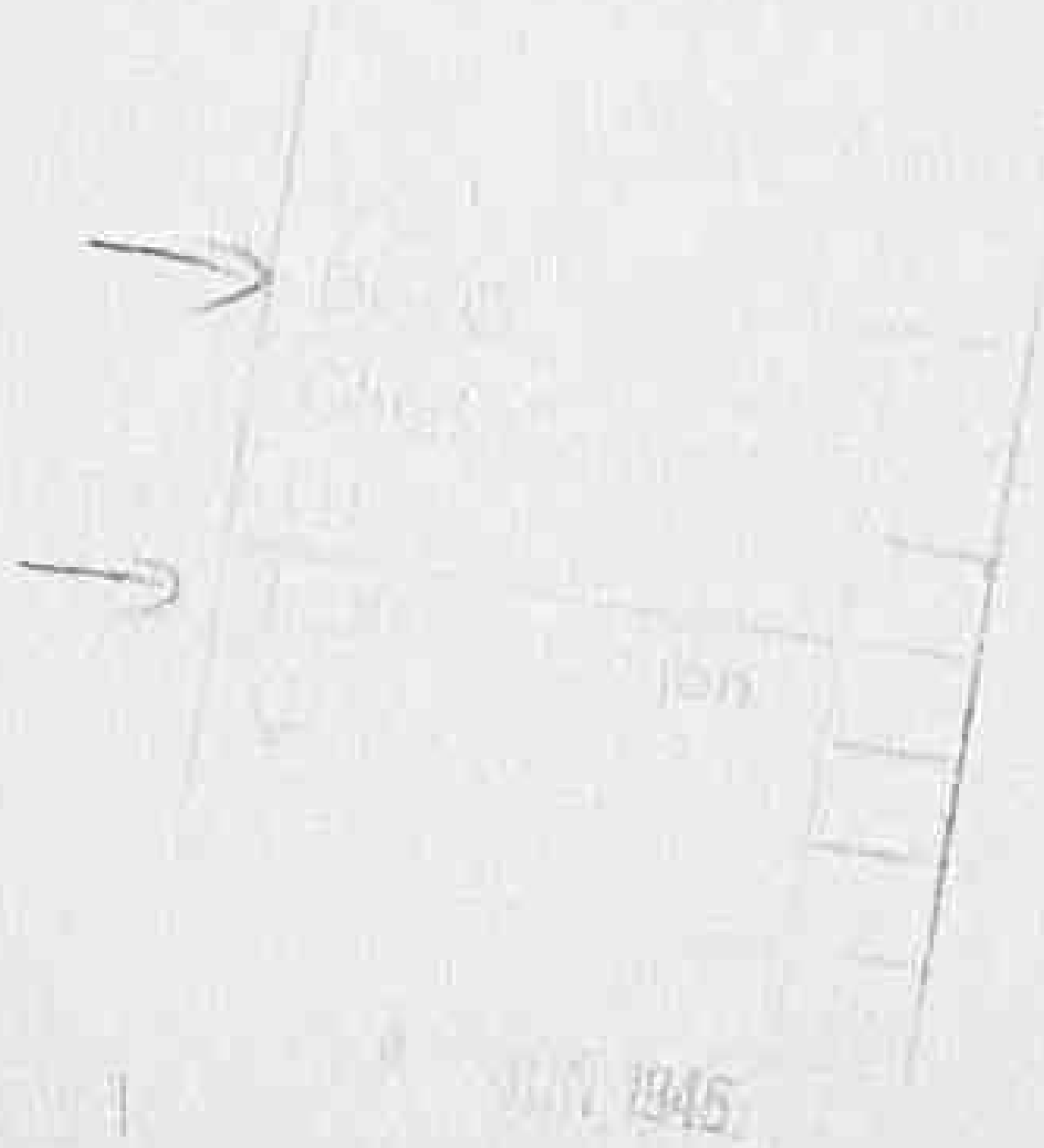
*{ Recd Legal
4 Jul 1945*

1. The attached particulars of cases tried to date by Special Courts of Assize within this Region are submitted for your information.
2. Sittings of these Courts are due to commence in the remaining Provinces next week.

For the Regional Commissioner :

H.M. Dickie Lt Col
H.M. DICKIE
W/Cdr. R.A.F.
Regional Legal Officer

+50



JUL 1945

SPECIAL COURTS OF ASSIZE

Return of cases to 31st May 1945. -

65

Place of trial	Name of accused	Charge	Sentence
Milan	Rolandi Ricci, Vittorio	Ex-Senator, collaboration by writing articles in the Corriere della Sera.	15 years.
"	Ferlas, Maria	Espionage	12 "
"	Marvadi, Giulio	Brigadier G.N.R. who took part in shooting of 4 persons by way of reprisal.	18 "
"	Cencini, Fausto	Collaboration as being a member of "Muti"	Acquitted for lack of proof.
"	Curti, Vittorio	Collaboration by propaganda as a Director of the paper "Sveglia"	10 years
"	Teruzzi, Attilio	Ex-minister; politico-military collaboration, concerned in the 1922 insurrection and the Coup d'Etat of 1925.	30 years
"	Buffarini Duidi	Minister of the Interior of the Rep. Fascist Government.	Death.
"	Uccelli, Oscar	Prefect of Milan under the same government.	Death.
"	Riva, Carlo	Acting Prefect of Milan for a month in Sept. 1943	Acquitted.
"	Amicucci Ermanno	Collaboration by propaganda as Director of the Corriere della Sera.	Death.

Place of trial	Name of accused	Charge	Sentence
Milan	Ferlito, Edoardo	Collaboration by political activity with the Federation of the Fascist Republican Party.	11 years
"	Sandri, Marcello	Collaboration in German police forces	20 "
Brescia	Romera, Luigi	Collaboration by propaganda in Corriere della Sera.	15 "
"	Federici, Vincenzo	Procuratore Pubblico Accusatore of Tribunale Provinciale and Tribunale Speciale per la Difesa dello Stato.	30 "
"	Lazzari, Giovanni	-	Adjourned sine die
Yarose	Naghel, Margherita	Political secretary at Aazio who caused the arrest of partisans.	11 years
"	Censini, Amerina	Member of Ufficio Politico Investigativo who had partisans and anti-fascists arrested.	16 "
"	Brunacci, Carlo	Collaboration by propaganda	Adjourned for further evidence.

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

WEB/20.

4 June 1945.

AG/4092/1/Lc

SUBJECT : Jurisdiction of Special Courts of Assize.

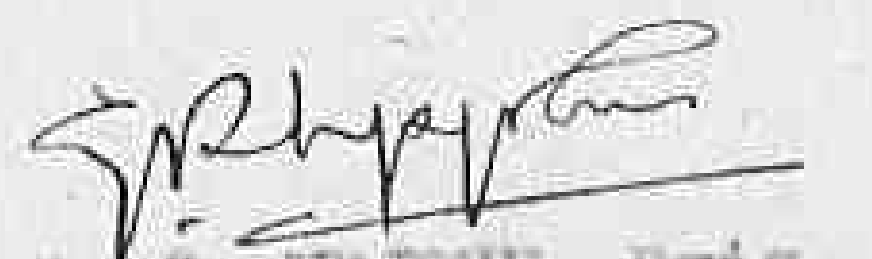
TO : Regional Commissioners (Attn: Regional Legal Officers),
EMILIA, LOMBARDIA, LIGURIA, PIEMONTE and VENEZIA Regions.
SCAO AMG, 5th and 8th Army, Hq AMG IV Corps
Hq VENEZIA GIULIA Region.

1. The President of the Special Section of the Court of Cassation, sitting in Milan, has raised certain doubts as to the respective jurisdictions of the special Courts of Assize and Military Tribunals in cases of acts of collaboration with the enemy members of the army.

2. The problem was therefore discussed by the Minister of Justice, H.E. Boeri representative of the High Commission, H.E. Borgari, Procuratore Generale Militare and Col. Behrens. It was agreed by all parties that the correct solution was that the Special Courts of Assize should have exclusive jurisdiction in all cases of offences within the scope of DLL. N° 142 of 22 April 1945, by whomsoever such offences were committed. The jurisdiction of the Military Courts should extend over personnel properly within the jurisdiction of such courts who are charged with other crimes, whenever committed.

3. The Minister of Justice, H.E. Boeri and H.E. Borgari are proposing to write the necessary letters to confirm this agreement, but will you please notify the parties concerned and ensure that this agreement is carried into effect.

By command of Rear Admiral STONE :


G. R. UPJOHN, Brig.
VP CA Sec HQ AG.

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47A

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
MFO 394
Legal Division

Ref.: LBG/5038

2 June 1945

SUBJECT: Extraordinary Courts of Assizes at Savona.

To: Regional Commissioner Liguria
(for Regional Legal Officer)

1. It is understood that a number of sentences have been pronounced by the Court of Assizes of Savona, including a number of death sentences.
2. It is further understood that in some cases appeals to the Court of Cassation have been lodged as early as 23 ult.
3. The Special Section of Cassation of Milan which has been established especially to deal with appeals from the Court of Assizes have not received to date any communication from Savona.
4. Attention is drawn to Art. 17 of D.L.N. 142 setting out the time limits for such appeals.
5. Would you be good enough to ascertain from P.L.C. Savona whether or not such appeals have been lodged and if so give the necessary instructions for these to be forwarded to this office in Milan or direct to the Court of Cassation without delay.
6. Documents should be addressed as follows:
 U.E. Il Presidente della Sezione di Cassazione
 presso il Primo Presidente
 Corte di Appello
 Milano

→
→

ll
ll

G. G. Hannaford 46

G.G. HANNAFORD
Officer i/c Italian Courts
Legal Sub-Commission
Allied Headquarters.

Copy to: A.C. H.Q.'s -
Legal Sub-Commission
LBG/5038

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

(46A)
/rlp.
2 June 1945.

~~File~~
AG/4092/1/L.

SUBJECT . Special Court of Assize.

TO . Regional Commissioner (Attn: Regional Legal officer).
LOMBARDIA Region.

1. Reference your LEG/5098 of 31 May 1945.

2. I have not yet had the opportunity of discussing with the Minister the replacement of the Court of Cassation by local personnel. The Minister is away, but I shall take it up on his return. Manca is not helpful.

3. On the point of the time limits for appeal by the Procurators Generals, the Minister takes the view that under Article 13, the reduced time limits apply throughout and that no amendment of the law is needed. A memo will be issued, but in the meantime perhaps you would convey this information to the President.

By command of Rear Admiral STONE:

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

45

USA

INTERNATIONAL RED CROSS COMMISSION
210 304
CIVIL AFFAIRS SECTION

7/10/45

/r/p.
1 June 1945.

SUBJECT : Fascist Republicans - Prisoners of War.
IN : AFSA, 8-5.

1. The President of the Section of the Court of Cassation in Milan, charged with the determination of appeals from the Special Courts of Justice in North Italy, has requested that a ruling be given on the jurisdiction of the Italian Courts in relation to a number of persons now in prison in Milan who claim to be treated as prisoners of war.
2. The claim is based upon the contention that the persons concerned were members of the Black Brigades and similar organizations and that they were captured by the partisans and are therefore entitled to be treated as prisoners of war and not be made subject to the Special Courts of Justice.
3. It will be observed that, if this claim is upheld and the jurisdiction of the Courts of Justice excluded, it will be extremely simple for any person accused to avoid trial. This will undoubtedly have serious repercussions.
4. In any event it appears to this Commission that there is no substance in the claim that the jurisdiction of the Italian Courts is excluded. It may be true that if the accused had been captured by the Allies they would have been entitled to treatment as prisoners of war. It may even be true, although it is not the view of this Commission, that under the terms of 383.5/1/1/1 of 6 March 1945 they should now be taken into custody as Allied prisoners of war. In either case they would only be entitled to the protection of the Geneva Convention against the detaining power, in this case the Allies. The Geneva Convention does not apply to protect a subject from his own sovereign government. Moreover, there is nothing in the Geneva Convention to prevent the release and repatriation of a prisoner of war, in which case he loses the protection of the Convention.
5. It is therefore the opinion of this Commission that as the men who now in fact been taken into custody by the Italians and been brought before the Italian Courts in subject to the jurisdiction of those courts and cannot claim to exert that jurisdiction by virtue of a prisoner of war status.
6. It appears, however, that the First President has been informed that the question is to be determined by the Allied authorities and that, in the

56

meanwhile, when this objection is taken, the sentences of the court cannot be put into operation.

7. It is therefore requested that a ruling be given which can be notified to the President. You will appreciate the extreme urgency of the question, and the difficulties which will result from any delay in the decision and still more from any decision which prevents the Italian Courts from trying these cases.

For the Chief Commissioner:

G. A. GERONZI, Pres.,
1st CA Sec. Hd. C.

Copy to File C/4086/E
File AC/4092/1/1.

43

File
 HQ QUARTERS ALLIED COMMISSION
 APO 394
 LEGAL SUB-COMMISSION

24A

AC/4092/1/L.

ES/pa.
21 May/45

SUBJECT : Personnel for Court of Cassation Section.

TO : Regional Commissioner (Attn: R.L.O.),
LOMBARDIA Region.

1. Prof. Vassalli kindly agreed to hand to you this letter.

2. Enclosed is a copy of a signal sent to you on 19 May which most probably is already in your hands.

3. It now appears that the Special Section of Cassation cannot sit without a publico ministero. The Ministry has designated M.E. LEPORE Arturo, Avvocato Generale, Corte di Cassazione, to this office. He agreed to go to Milan and it is hoped that it will be possible to send him on a plane leaving Rome on Thursday morning.

4. The plane carrying the six members of the Section of Court of Cassation is scheduled to arrive at Milan on Wednesday morning, May 23 at about 1200 hours. The plane will also carry three officials of the Ministry who are to examine the files of the fascist Ministry of Justice and of the fascist Court of Cassation. As indicated in the above referred signal this Sub-Commission would appreciate any assistance you might render to the Consiglieri in their search for living quarters. As for the three members of the Ministry could you please assist them in obtaining motor transport for Brescia, Cremona and Verona.

By command of Rear Admiral STONE :

ref.

A. R. THACKRAH, *42*
 Lt. Colonel,
 Italian Branch,
 for Chief Legal Advisor.

Original to Prof. Vassalli
 P. S.

We have succeeded in obtaining the assurance that Sig. LEPORE will be able to travel along with the Consiglieri on Wednesday.

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NATIONAL COMMISSION (ATTN: REGIONAL DISTRICT OFFICER) LONG BEACH REGION

0012

19 MAY 1965

ROUTINE

THIS CASE IS BEING HANDLED BY THE DISTRICT OFFICE WITH OFFICE NOW AS FOLLOWS
PLEASE TO NATIONAL COMMISSION WITH ATTENTION REGIONAL DISTRICT OFFICER
LONG BEACH REGIONAL DISTRICT OFFICER
 PRESIDENT
 ONE CAROLINO VITALE TWO VITALE GIOVANNI THREE TRINCA DI GASTELLANO
 CIRILO FOUR D'AMIA GIUSEPPE FIVE GIUSEPPE VIENNOSE SIX VIOLETTA CARLO RO
 SEVEN VITO EIGHT VITO UNDECELY NINE VITO TEN VITO
 ACCOMPANIED BY HIS OWNERS

41

NATIONAL COMMISSION

302

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
APO 394

16 May 1945

SUBJECT: Opening of Extraordinary Courts of Assizes - Section of Court of Cassation in Milan.

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

1. The Extraordinary Court of Assizes of Milan (3 Sections) will try its first cases on Wednesday 23 May.
2. Through constant pressure from this Division and PLO's, it is expected that these Courts will be functioning in all provincial capitals of Lombardia in about ten days.
3. It is to be expected that recourse to Cassation will be coming in from the Extraordinary Courts of Assizes before the end of this month.
4. It is therefore imperative that the Ministerial Decree setting up the Section of the Court of Cassation in Milan be received here in the course of the next few days.
5. No communication whatsoever has been received from AC HQ since 5 May. It is understood that an air service operates daily between Rome and Milan. Could advantage of this facility be taken please?

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

Ed
JL
18 MAY 1945

4092/11

(21A)

HEADQUARTERS
 ALLIED MILITARY GOVERNMENT
 LOMBARDIA REGION
 APO 394
 Legal Division

REF: LEG/5020

13 May 1945

SUBJECT : Extraordinary Courts of Assize

TO : H.Q. Allied Commission - Legal Sub-Commission.

1. Further to LEG/5020 of 12 May 1945 an amended list of Presidents, Vice Presidents and Pubblici Ministeri for the circuit of Brescia is enclosed.

2. The up to date list of Presidents for the circuit of Milan is also enclosed and should be communicated to the Minister of Justice.

3. Copy of the order of General Cadorna appointing a³⁹ Military Court under DLL 65 for Como Province is forwarded for the Procuratore Generale Militare's information and further instructions. If personnel are available either locally or in Rome it is intended to establish as many of these courts as possible. To date DLL 65 has only been implemented in the Province of Como.

4. It is probable that a number of persons who will be tried by these Courts may also fall in the category of War Criminals. It is not proposed to interfere with the course of "popular" justice until definite and complete instructions are received from you on the subject.

5. A further meeting took place with members of CLNAI on the question of the formula "Umberto di Savoia" etc. It was pointed out:

(a) that this matter could be discussed by them with the other members of the CLN on their return from Rome and with the Ministers who are expected here.

(b) that A.M.G. did not propose to exclude DLL 164 from the general implementation which is about

10/9/21
Cassazione di Roma
Pavullo di

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APPIUNTO PER S.E. IL MINISTRO

La proposta del dott. CARTASTAGNA, nella qualità di primo presidente della Corte di Appello di Milano, (qualità che si ignora a quale titolo egli rivesta, dato che è andato a riposo a decorrere dal 1° settembre 1944) relativa alla istituzione di una sezione della Corte di Cassazione in Milano, non sembra possa trovare accoglimento.

Amzi tutto il decreto legislativo 22-4-1945, n. 143, nell'art. 16, prevede l'istituzione di una sezione speciale provvisoria della Corte di Cassazione, la quale può funzionare temporaneamente fuori della sede ordinaria. La formulazione della disposizione fa intendere, con sufficiente chiarezza, che la sezione provvisoria anzidetta debba avere, come sede normale, quella della Corte Suprema di Cassazione, e cioè: Roma. Ond'è che istituire una sede permanentemente a Milano sarebbe in contrasto con la citata norma, anche sotto il riflesso che, una volta istituita a Milano, non vi sarebbe ragione di non istituirla a Torino, a Genova, a Bologna, a Firenze e via dicendo.

D'altra parte la proposta, di cui è cenno, non sembra accoglibile neanche sotto l'aspetto di designare, fin da ora, magistrati della Corte di Appello di Milano, destinandoli a far parte della sezione della Corte di Cassazione. E ciò per due fondamentali ragioni:

1°) Se si destinassero alla sezione della Corte di Cassazione i magistrati di quarto grado della Corte di Appello di Milano, essi non potrebbero più esercitare le

La proposta del dott. CARTASEGNA, nella qualità di primo presidente della Corte di Appello di Milano, (qualità che si ignora a quale titolo egli riveste, dato che è andato a riposo a decorrere dal 1° settembre 1944) relativa alla istituzione di una sezione della Corte di Cassazione in Milano, non sembra possa trovare accoglimento.

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D'altra parte la proposta, di cui è cenno, non sembra accoglibile neanche sotto l'aspetto di designare, fin da ora, magistrati della Corte di Appello di Milano, destinandoli a far parte della sezione della Corte di Cassazione. E ciò per due fondamentali ragioni:

1°) Se si destinassero alla sezione della Corte di Cassazione i magistrati di quarto grado della Corte di Appello di Milano, essi non potrebbero più esercitare le funzioni di presidente di sezione, poichè non è consentito

-2-

dal nostro ordinamento fare parte contemporaneamente di due collegi giudiziari: e, per di più, di due collegi diversi per grado e per funzione.

20) Non sarebbe possibile, d'altronde, destinare, mano mano che si rendesse necessario, alcuni dei detti magistrati per comporre la sezione speciale del supremo Collegio, perchè si urterebbe contro il principio istituzionale che il giudice deve essere preconstituito e permanente, e non nominato di volta in volta.

Non è inutile infine osservare, che, dei magistrati elencati nella proposta Cartaseana, solo il dott. GIOVANNI BRICCHETTI potrebbe legittimamente far parte della sezione speciale, essendo egli stato promosso dal legittimo governo italiano; mentre per gli altri, e cioè: i dottori GUIDI, PRIMICERI, SCHIRALLI, PETRONE e CENCIARINI, la promozione al IV grado, non è da ritenersi valida per se stessa, essendo stata conferita dal governo illegittimo.

Per quanto riguarda infine il dott. UGO DAVIDI, egli anzitutto non ha il grado IV e, d'altra parte, occorre nei suoi riguardi emanare il decreto per il richiamo in servizio, previa deliberazione del Consiglio dei Ministri.

In conclusione, quindi, si propone che resti fermo il provvedimento ministeriale già adottato, salvo lo spostamento della sezione della Corte quando ciò si rendesse necessario. E ciò anche per l'opportunità di non scindere, soprattutto per giudizi così delicati, l'unità della Corte di Cassazione; anche dal punto di vista della uniformità della giurisprudenza in quelle affermazioni di principio, che potranno essere eventualmente adottate, come criteri

per grado e per funzione.

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14-5-1955

Cartasena

19A

E/mt.
18 May 1945.

MINISTRO DEL RE
DIREZIONE GENERALE
MINISTRO DEL RE

[Handwritten signature]

OGGETTO : Implementation of Decree No. 186/1945 (Extraordinary Courts of Assize for Bologna, Ravenna and Forlì).

TO : Regional Commissioner (also: Regional Legal Officer), Emilia Region.

Your attention is drawn to the implementation order in respect of the above decree contained on the last page of the enclosed issue of Gazzetta Ufficiale.

By command of Your Excellency:

[Handwritten signature]
M. S. TROVATI,
M. Col.
Italian Branch,
For Chief Legal Advisor

Copy for NY/1092/45.

HEADQUARTERS ALLIED COMMISSION
 AND 394
 LEGAL SUBCOMMISSION

18A

AG/4092/1/L.

/rfg.
 15 May 1945.

SUBJECT : Special Courts of Assize.

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

1. Your ~~LL~~ 5020 of 12 May 1945 is acknowledged.

2. Every effort will be made to procure additional Grade V personnel to form separate sections for the Special Courts. It is assumed that personnel sent from the south will be acceptable in view of the prevailing shortage in the north. A conference has been arranged with the Minister of Justice tomorrow morning when the whole subject will be discussed, and he will be asked to remove suitable personnel from the south and to appoint them on a temporary basis to the north. I have very little doubt that he will disapprove, as frankly I do myself. ~~As~~ the appointment of vice presidents of Grade VI. Such an appointment is not authorized by the decree and I feel that an official of Grade VI would not be sufficiently experienced for this work. I intend to press for at least six Grade V officials.

3. I have already written a reply on the special section of the Court of Cassation. I of course appreciate your problems but I do not approve Lt. Col. Hannaford's suggestion for the following reasons:

a. Of the personnel proposed for the court, only one is the required grade. While it would be possible to regularize the practices made by the Prussia Government, the Minister of Justice states that he does not feel justified in doing so in the case of the particular officials mentioned in the letter. I sympathize with his point of view and so long as he is ~~acting~~ bona fide I do not see that I can compel him to change his attitude. *acting*

b. All personnel named are from the Milan area. I know that the court will sit in Milan and that if it is not permanently engaged in hearing appeals the judges appointed to it can be occupied in other work at other times. On the other hand, it is essential that the court should at least have the appearance of being a section of the Court of Cassation at Rome and not a section of the Court of Appeal at Milan. I have requested names of possible nominees from Venice, Turin, Genoa and Bologna. So far

X The Minister first said this
 but later doubted it.

I have had no reply from Venice giving me one nominee who has been promoted to the required grade by the Brescia Government. I have had no replies from any of the other regions. I appear to be out of touch with these regions so that if you can communicate with them and press them to submit nominees, it will be to advantage. In any event I propose to visit Turin, Genoa and Milan at the end of the week when I may be able to achieve something.

4. A request has been made to the Procuratore Generale Militare to furnish forthwith personnel for military courts in your area and I hope that they will come as soon as possible.

5. HQ can in no circumstances countenance any departure from the formula contained in D.L. 164 of 1944 unless and until such departure is agreed by the Italian Government.

6. Economic Section state that it is the intention that General Order No. 41 should be posted forthwith. Please therefore take immediate steps to post it.

7. Five extra sets of the Gazzetta have already been sent to your Hq in reply to your previous request for a few copies; the extra 15 are being prepared and will be forwarded.

8. The supplement to GU No. 51 is not attached to the copies of that Gazette. It is handled separately and the full number of copies have already been delivered to your Hq as part of the supply which you have already received.

By command of Rear Admiral STONE,

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

34

4092/1

17A

CORTE D'APPELLO DI MILANO

Milano, 22 maggio 1945

Allo Spett.le Ministero della Giustizia
All'Ufficio di Roma

Le comunicazioni in oggetto sono state inviate alla Vostra Direzione
Comunale di Controllo allese del 24.5.45, in esecuzione della
risoluzione del Consiglio Comunale di Roma del 24.5.45, n. 143,
in merito:

AL SIG. ...

Presidente, Uff. ... - Consigliere di Appello
Presidente, Uff. ... - Consigliere di Appello

Consigliere, Uff. ... - Consigliere di Appello

Consigliere, Uff. ... - Consigliere di Appello

UFFICIO DEL PUNTO DI RICEZIONE

- Dir. Uff. ... - sost. Proc. Gen.
- Dir. Uff. ... - sost. Proc. Gen.
- Dir. Uff. ... - sost. Proc. Gen.
- Dir. Uff. ... - Consigliere di Appello
- Dir. Uff. ... - giudice
- Dir. Uff. ... - giudice
- Dir. Uff. ... - giudice
- Dir. Uff. ... - giudice
- Dir. Uff. ... - sost. Proc. Tribunale
- Dir. Uff. ... - sost.
- Dir. Uff. ... - sost.
- Dir. Uff. ... - sost.

33

Dott. Agostino Giuseppe - Pretore
 Dott. De Luca G.anni Battista - Pretore
 Dott. Fabbri M.rioso - Pretore
 Dott. V.assallo Alfredo - Pretore
 Dott. Ventura Sebastiano - Pretore

1937

Presidente e Cav. Giuseppe Maria - Consigliere di Appello

UFFICIO DEL TRIBUNALE

Cav. Uff. Sebastiano Maria - Post. Proc. Generale del Tribunale di capo del
 Ufficio

Avv. Giuseppe Maria - Avvocato designato dal G. d. d. d.

Avv. Maria - Avvocato designato dalla stessa Commissione con nomina
 di istruttoria

1938

Presidente e Cav. Uff. Sebastiano Maria - Consigliere di Appello

UFFICIO DEL TRIBUNALE

Dott. Antonio Sebastiano Maria - Giudice

Dott. Sebastiano Maria - Pretore

Dott. Augusto Sebastiano - Post. Proc. Trib.

1939

Presidente e Cav. Uff. Sebastiano Maria - Consigliere di Appello

UFFICIO DEL TRIBUNALE

Dott. Flora Maria - Pretore

Dott. Sebastiano Maria - Pretore

Avv. G. Maria

32

1940

Presidente e Cav. Uff. Sebastiano Maria - Consigliere di Appello

UFFICIO DEL TRIBUNALE

Dott. Sebastiano Maria - Post. Proc. Gen.

Dott. Sebastiano Maria - Post. Proc. Trib.

Dott. Sebastiano Maria - Giudice

Avv. G. Maria

Avv. Sebastiano Maria

IL PROCURATORE GENERALE

Handwritten notes and stamps at the top of the page.

Handwritten initials 'IA' inside a circle.

1. Special Section of Dept of Education.
2. Special Section of Dept of Education...

3. Special Section of Dept of Education...

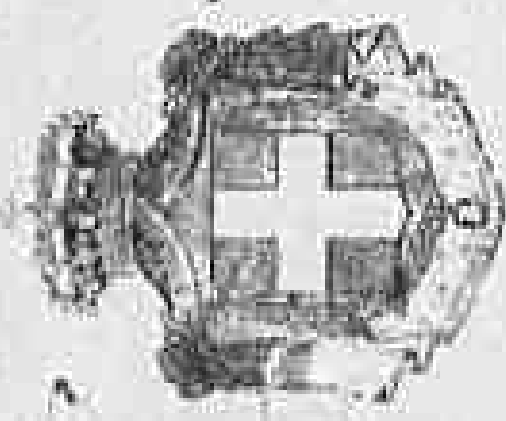
4. Special Section of Dept of Education...

5. Special Section of Dept of Education...

6. Special Section of Dept of Education...

7. Special Section of Dept of Education...

Bottom section containing various stamps and handwritten notes.



Il Guardasigilli 15A

MINISTRO SEGRETARIO DI STATO PER LA GRAZIA E GIUSTIZIA

Visto il D.L.L. 22 aprile 1945 n. 142, relativo alle Corti di Assise straordinarie per i reati di collaborazione coi tedeschi;

Visto l'art. 16 di detto decreto, che prevede la istituzione di una sezione speciale provvisoria della Corte di Cassazione per giudicare sui ricorsi avverso le sentenze delle predette Corti di Assise straordinarie;

D E C R E T A :

E' istituita una sezione speciale provvisoria della Corte di Cassazione, per giudicare sui ricorsi avverso le sentenze emesse dalle Corti di Assise straordinaria previste dal D.L.L. 22 aprile 1945 n. 142.

A tale Sezione sono assegnati i seguenti magistrati:

- S. E. SERENA MONGHINI dr. Antonio - Presidente di Sezione della Corte di Cassazione;
- FROPPIZI DR. Giorgio, Consigliere di Cassazione
- VITALI DR. Giovanni, id.
- TOESCA DI CASTELLAZZO DR. Giulio, Consigliere di Cassazione
- GIOCOLI DR. Leonardo, Consigliere di Cassazione
- BOHRAGINE DR. Vincenzo, id.
- BADIA DR. Giuseppe, id.
- CHIPEPA DR. Vincenzo, id.

Il Primo Presidente della Corte Suprema di Cassazione *Quaranta* caricato della esecuzione del presente decreto.

Roma, maggio 1945

IL MINISTRO

MINISTRO SEGRETARIO DI STATO PER LA GRAZIA E GIUSTIZIA

Visto il D.L.L. 32 aprile 1945 n.142, relativo alle Corti di Assise straordinarie per i reati di collaborazione coi tedeschi;

Visto l'art. 16 di detto decreto, che prevede la istituzione di una sezione speciale provvisoria della Corte di Cassazione per giudicare sui ricorsi avverso le sentenze delle predette Corti di Assise straordinarie;

D E C R E T O :

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A tale Sezione sono assegnati i seguenti magistrati:
S. E. SERENA MONGHINI dr. Antonio - Presidente di Sezione della Corte di Cassazione;

PROPERZI Dr. Giorgio, Consigliere di Cassazione

VITALI Dr. Giovanni, id.

TOLESA DI CASTELLAZZO dr. Giulio, Consigliere di Cassazione

GIOCOLI Dr. Leonardo, Consigliere di Cassazione

BOBRAGINE Dr. Vincenzo, id. *(Bologna)*

BADIA Dr. Giuseppe, id.

CHIEFFA Dr. Vincenzo, id.

Il Primo Presidente della Corte Suprema di Cassazione *g. An-*
caricato della esecuzione del presente decreto.

Roma, maggio 1945

IL MINISTRO

Quaranta

1/4 of file 4-92/1

14A

UNITED STATES GOVERNMENT (OFFICE OF THE ATTORNEY GENERAL)

7652 15 MAY 1942

IN CLEAR BY ANY MEANS TO

THE OFFICE OF THE ATTORNEY GENERAL

REPLY TO THE OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL

THE OFFICE OF THE ATTORNEY GENERAL

IS REQUESTING THAT YOU ADVISE THE OFFICE OF THE ATTORNEY GENERAL

AS TO THE STATUS OF THIS MATTER.

ATTORNEY GENERAL

52

29

40921/1
 HEADQUARTERS
 VENEZIE REGION
 Allied Military Government
 APO 394

14B
 12 May 1945.

TO : Chief Legal Adviser, Legal Sub-Commission, HQ, AC.
 SUBJECT: Special Section of the Court of Cassation.
 FILE No: RXII/LE/Reg/C/03.1.

1. Reference your AC/4092/L of 5 May 1945.
2. There are no judicial officials in this Region of the required ^{grade} ~~grade~~ for President of a Court of Cassation or for Sostituto Procuratore Generale.
3. For consigliere there is available TISSI GUIDO, President of Section of the Court of Appeal of Venice. This gentleman, however, is 63 years of age, and for some months has been absent from work through sickness. I cannot guarantee, therefore, that if appointed he will be able to function on the Special Court of Cassation at Milan.
4. There are two other officials whom I should mention, namely DE CARLI GIULIO and CARLINI OVIDIO. These two gentlemen were promoted during the Fascist - Republican regime to be Presidents of Sections of the Court of Appeal and are now acting as such. Having regard to D.L.L. 249 of 1944, it appears doubtful whether these promotions are valid in the eyes of the legitimate Italian Government. In order to enable them to continue functioning as Presidents of Sections, and in view of the doubt, I am having an order published by the Regional Commissioner provisionally confirming them in their present appointments. If these appointments can be recognised by the Italian Government in Rome, these two officials are also available as Consiglieri of the Special Section of the Court of Cassation.
5. It is possible that there may be available some official of the required ^{grade} ~~grade~~ in the Detached Section of the Court of Appeal at Trento. So far, however, I have had no opportunity of visiting Trento, which is of course still

within 5th Army Area and has only recently been taken over by the AMG team. It is therefore too early to say whether any further suitable candidates will be available from this source.

6. It is not thought that the new Primo Presidente of the Court of Appeal at Venice would be a suitable candidate for the Special Section of the Court of Cassation. I have discussed the matter with him, but he feels that his duties in Venice preclude the possibility of his being available to sit on the Court at Milan.

7. I myself feel that it would be most desirable that this Region should be represented by at least one member on the Special Section of the Court of Cassation. I hope, therefore, that it will be possible to have one of the officials mentioned above appointed.

8. In conclusion, I should like to add that in Venice at any rate the prospect of the Special Section of the Court of Cassation not being ready to sit for another 6 weeks is viewed with something like dismay. Public opinion in this part of the world is insistent that Fascist criminals shall be brought to justice forthwith. If execution of sentences is to be delayed for a matter of six weeks by the formalities of Appeal, I fear that public opinion will revolt, and there is more than a possibility that disorders will result. I, therefore, urge most strongly that the Special Section of the Court of Cassation be constituted and established ready to function without any delay whatsoever. Feeling in Venice, where hitherto there have been no disorders, is running very high indeed.

LEGAL OFFICER

CLO

DELO

Chief Clerk

CFO

Italy

C

15 MAY 1945

H. L. Linnar

Colonel,
Regional Legal Officer,
AMG, Venezia Region.

27

4092/1 ✓

Legal Sec (140)

DCLO
Chief
CIV

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
LOMBARDIA REGION
APO 394
Legal Division

REF: LEG/5020

12 May 1945

SUBJECT : Extraordinary Courts of Assize

TO : H.Q. Allied Commission - Legal Sub-Commission.

1. All Provincial capitals within this Region have now been visited and the provisions of DIL 142 explained to the magistrates and other parties concerned.

2. Orders have been signed by the Primo Presidente and the Procuratore Generale of the Milan Court of Appeal appointing the Presidents and Public Prosecutors for one Court in each Province in the District and three for Milan itself (copies attached). Similar orders have been signed for the Brescia Circuit.

3. The number of cases awaiting trial is estimated to exceed 20,000. It is obvious therefore that one Court per Province will be unable to cope with the work involved and it is urged that separate Sections be established where required e.g. Vigevano, Busto Arsizio, Lecco, Voghera.

4. The difficulty to be faced is the lack of sufficient personnel of Grade V in this Area. It is therefore requested that either the First President be authorised to nominate an official of Grade VI to act as Vice President and sit as head of a Section or that additional personnel of Grade V be sent North at once.

5. A reply to Lt. Col. Hannaford's letter on the setting up of a special section of the Court of Cassation is urgently required.

6. In certain districts e.g. Como and Pavia, the local authorities are of opinion that the procedure of the Special Courts will involve too long a delay before results appear, especially in the cases of well known Fascists charged with

tortures and brutalities. Arrangements are therefore being made for Military Courts to be started in this Area forthwith under DLL 65 for which purpose personnel from Rome are urgently required. General Cadonna is also being approached on this question.

7. A delegation from the CLNAI representing each of the constituent parties yesterday stated that all the parties were agreed that the formula contained in DLL 164 ("Umberto di Savoia" etc.) was not acceptable in Northern Italy and that the use of this formula by the President of a Special Court of Assize would meet with public disapproval and might even lead to disorder. The delegates suggested that the formula "In the name of the Law" be used instead.

8. It was pointed out to the delegation that this was a question of Italian law and that A.M.G. was not in a position to alter legislation which had been accepted by the heads of all the parties in Rome. The delegates were directed to put forward their recommendations on this subject to the Italian Government, if they so desired.

9. G.O. No.41 arrived at this H.Q. yesterday. Authority to post it is still awaited.

10. Certain Provincial Legal Officers are without supplies of the Official Gazettes, since these have apparently been lost or mislaid between Rome, Chianciano, Rome, Seina and the various Provincial Capitals. Can 20 extra sets of the Raccolta and subsequent issues be forwarded to make up these deficiencies and to provide additional copies for certain of the magistrates?

11. Supplies of the Gazzetta Ufficiale for delivery to the Prefects have been received, and the Supplement to G.U. 51 came to hand yesterday. As soon as the situation regarding the appointment of Prefects is clarified, the legislation will be implemented in the normal way.

For the Regional Commissioner:

H. M. Dickie

H. M. DICKIE
W/Cdr., R.A.F.
Regional Legal Officer.

The Supplement appears NOT to be attached to the copies sent for distribution in the Provinces. If not already on its way, necessary supply please be forwarded as soon as possible!

409211
409211

INCOMING MESSAGE

HEADQUARTERS ALLIED COMMISSION

13A
AFCM

Originator's Reference: NEW/248/28
Date/Time of Origin: MAY 17

Message Centre No: 3/109
Date Time Rec'd: MAY 12 10 10
Precedence: PRIORITY

FROM: AND BARRIA REGION
TO: HQ ACOM CLEMASING

RESTRICTED

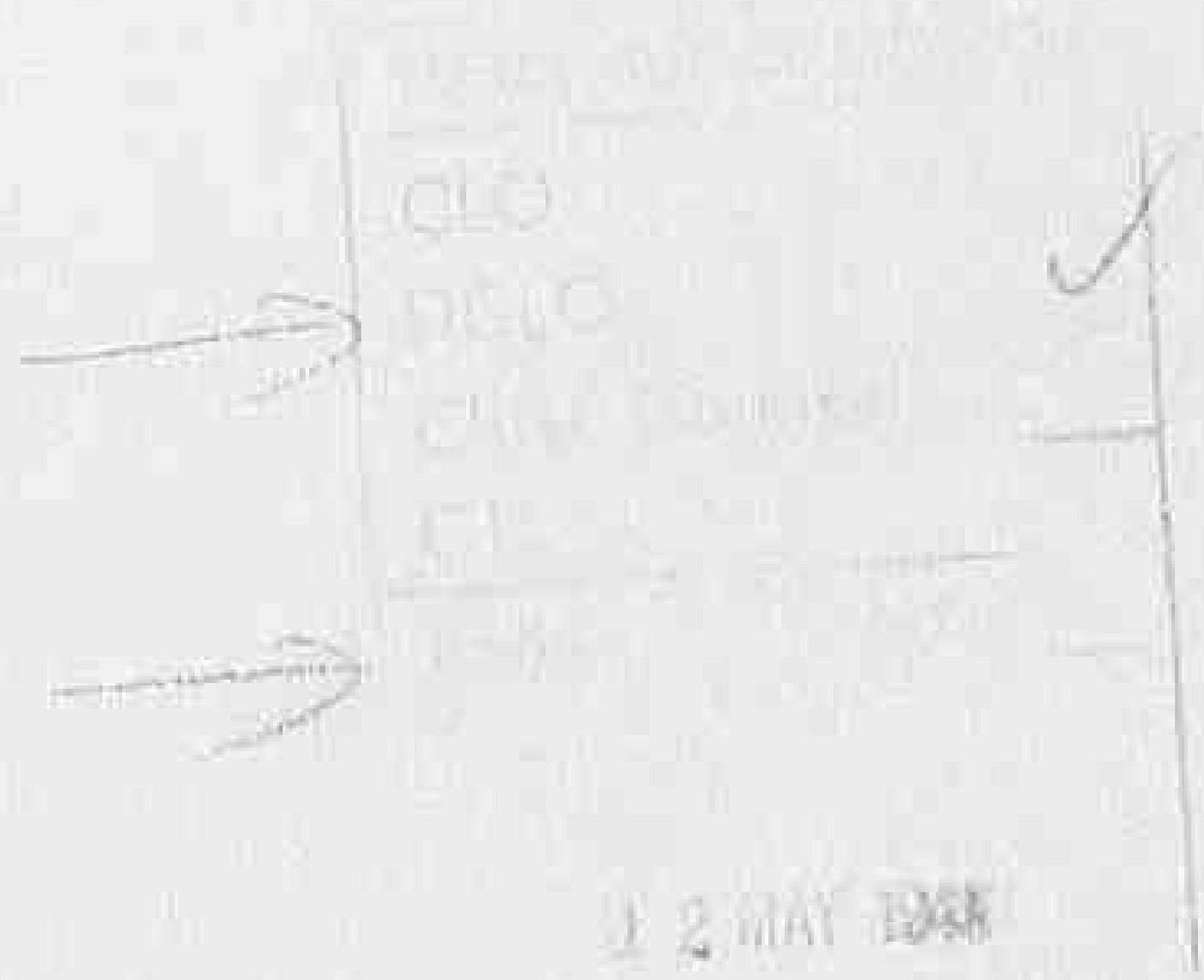
RESTRICTED.

Due to local conditions it is urgently requested that Italian Government extend decree 142 special court of seizure to FORLI and RAVENNA provinces.

HEADQUARTERS
17 MAY 1945
A. C.

ACTION

- DIST
- ACTION - LEGAL S/C
 - INFO - A/PRESIDENT
 - CHIEF COMMISSIONER
 - CA SEC
 - FILE 2
 - MGAT



25

12 MAY 1945

RESTRICTED

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AG/4010/9A.

11 May 1945.

SUBJECT : Implementation of Italian Decrees.

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

1. Your monthly report of 3 May 1945 was no doubt written before you received the directive on economic decrees of 1 May 1945. In case this should not have arrived a copy is attached.

2. You will see that special supplement to Gazzetta Ufficiale 51 excludes (temporarily) all the "undesirable" economic decrees. There is therefore no objection to the immediate application of the implementation procedure, and indeed I hope that this has already occurred.

3. You will also see that Order No. 2 in that supplement tabulates in a convenient form all excluded decrees within the limits mentioned in the order.

4. On the subject of the implementation of D.L. 159/44 in relation to R.L. 112/45 discussed in your earlier letter I have discovered that D.L. 159 has been implemented in VERONA, VICENZA, LEGNANO and almost certainly in PAVIA. Any how it will be implemented in PAVIA very soon. I gather that it will be implemented in most of your Region also.

5. I do not therefore intend to issue a further implementation order which would probably only confuse other Legal Officers who had not seen the point. I have discussed the question with Brig. Uppin and made the following recommendation. If there is any province in VERONA in which the Special Court of Justice will be ready to proceed to trial before the General Statute decrees are implemented will you please issue for that province a Regional Order substantially as follows: -

I hereby order that for the sole purpose of R.L. No. 112 of 22 April 1945 and without prejudice to further implementation of R.L. No. 159 of 27 July 1944 and eventual modifications thereof by virtue of another order of the Allied Military Government, the provisions of Arts. 3, 5, 6, 7, 9 and 10 of R.L. No. 159 of 27 July 1944, published in G. U. No. 41 of 29 July 1944, shall become operative and shall have full force and effect of law in the Province of _____ on the day of _____ 1945.

//.

- 2 -

Io, _____ con la presente ordino che, al solo fine della applicazione del DM 22 aprile 1945, n. 142 e senza pregiudizio di ogni susseguente entrata in vigore del DM 27 luglio 1945, n. 159, e di eventuali modifiche dello stesso decreto in virtù di altra ordinanza del Governo Militare Alleato, le disposizioni degli articoli 5, 6, 7, 8 e 42 del DM 27 luglio 1945, n. 159, pubblicato nella Gazzetta Ufficiale n. 41 del 29 luglio 1945, entrino in vigore ed abbiano piena forza ed effetto di legge nella provincia di _____ dal giorno _____ 1945.

W. N. BRUNER,
Colonel,
Deputy Chief Legal Advisor.

4092

11A

REGIONAL COMMISSIONER (ATTN: REGIONAL LEGAL OFFICER) EMILIA REGION

9302

11 May 1948

PRIORITY

RESTRICTED PD

PAGE ONE PD REPLYING YOUR R SLANT L E SLANT BUREAU ZERO

FOUR SLANT ONE THREE SEVEN OF FOUR MAY PD ——— 448

PAGE TWO REGIONAL COMMISSIONER PAREN ATTENTION REGIONAL LEGAL OFFICER PAREN EMILIA REGION FROM THE ALCON SITE AGED PAREN

PAGE TWO PD REPLYING PREPARED COVERING SOLOONA FORLI AND RAVENNA PD ANTICIPATE PUBLICATION IN OFFICIAL GAZETTE ON FIFTEEN MAY

22

LEGAL 8/3

808

(10A)

HEADQUARTERS ALLIED COMMISSION
AFU 394
LEGAL SUB-COMMISSION

/s/p.
5 May 1945.

AG/1092/L.

SUBJECT : Special Section of the Court of Cassation.

TO : Regional Commissioner (with Regional Legal Officer),
Amiens, Arras, Bastogne, Luxembourg and Valenciennes Regions.

1. All No. 124 of 22 April 1945, instituting special Courts of Cassation for German collaboration, provided in art. 16 for appeal to a special section of the Court of Cassation which is to consist of 5 members and may sit outside France.

2. It is the intention that this special section should sit in Amiens.

3. It is considered improbable that there will be a sufficient number of appeals to this court to justify the formation of a permanent court and it is believed that if the members were readily available they could perform other judicial functions when not sitting on this court.

4. It is also considered that all personnel should be found from judges now in the north.

5. The court may require to commence sitting in about 6 weeks time, and it is necessary for the appropriate Ministerial Decree for the constitution of the court to be issued and implemented before that date. Please therefore forward to this sub-commission as soon as possible a list of available nominees recommended for appointment to the section as president, councillors and substitute procurators generale.

By command of Rear Admiral STONER

W. I. BULLOCK,
Colonel,
Deputy Chief Legal Officer.

Copy to: File AG/1092/L.

HEADQUARTERS ALLIED COMMISSION (no. 1000)
APO 394
LEGAL SUB-COMMISSION

Provisional

/rlp.
5 May 1945.

SUBJECT : Special Courts of Assize.

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

1. Your RXII/LL/Reg/C/04.1 of 30 April 1945 is acknowledged.
2. Copies of the supplement to Gazzetta Ufficiale No. 49 were despatched to your Region Hq last week on a sufficient scale to make an effective implementation in all provinces, but not of course on the usual distribution scale. It is hoped that they have now arrived.
3. The normal G. U. for implementation in the provinces you mention are being forwarded as early as possible and should arrive about 9 May. For the remainder of the region they can be left at Region Hq or Padova for future distribution.
4. Para. 6 of your letter has led to a heated argument among legal opinion in Rome, in which I am glad to say that my own view was confirmed by H.E. Casati, First President of the Court of Cassation. He says that the jurisdiction conferred by Art. 1 and Art. 2 of D.L. No. 142 is purely legislation by reference to a particular document and that it is immaterial whether D.L. No. 159 is effective law or not since, according to accepted Italian drafting (e.g., by the incorporation into municipal law of foreign law), Arts. 1 and 2 of D.L. No. 142 must be read as if they contained in themselves the relevant portions of Arts. 3 and 5 of D.L. No. 159, which are thereby implemented ad hoc by the implementation order. H.E. Casati has therefore no doubt that the Courts have jurisdiction to operate.
5. There is, however, a further point. Arts. 3 and 5 of D.L. No. 159 may be regarded as creating either new crimes or new punishments for old crimes. In so far as they create new crimes, the conferment of jurisdiction upon the special courts of assize to try such crimes, obviously confers the right to apply the specified punishment, since no other punishment is elsewhere specified. In so far as they create new punishments for old crimes, H.E. Casati feels that the point is open to an element of doubt, for the removal of which it would be desirable to implement Arts. 3 and 5 of D.L. No. 159 before an actual sentence is passed by a court.
6. In practice this implementation will, as you say, almost always have occurred automatically. In order to avoid any possibility of doubt,

however, a further special implementation order is appearing in the G. U. in the near future which can be implemented by itself and will clarify the position. If in any province the Special Courts are ready to deliver a sentence in any case before the general implementation procedure is introduced, this special supplement will have to be specifically rendered operative.

By command of Rear Admiral STONE:

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

9B

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

DA/5.16/CA

/rl.
5 May 1945.

SUBJECT : Security Internment Procedure in relation to Italian Special Courts of Assize.

TO : See distribution.

1. Enclosed herewith for information, copy of HQ 15th Army Group letter reference HQ1/7/CSI (b) of 1 May 1945.

2. Sufficient copies are enclosed for distribution to Provincial Public Safety Officers and Provincial Legal Officers.

By command of Rear Admiral STONE:

G. R. UPJOHN, 18

G. R. UPJOHN, LTJG.,
VP CA Sec, HQ AC.

Incls.

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CONFIDENTIAL

HEADQUARTERS
15TH ARMY GROUP
443 777

14017/CSI (b)

1 MAY 1945.

SUBJECT : Security Internment Procedures in relation to Italian Special Courts of Assize.

TO : See Distribution.

1. The Italian Government has passed a decree (DLE No. 249) establishing Special Courts of Assize for newly liberated territory. The decree has been approved by the Allied Commission (whose letter, CE/5.16/CA dated 25 April 1945) refers.

2. Such Courts, which are to be composed entirely of Italians, are to be set up in each province of N. Italy as soon as possible after its liberation. They are to have jurisdiction to try Fascist criminals and German collaborators (post Italian armistice), and their purpose is to enable the Italian people themselves to administer quick justice in respect of such persons.

3. It is believed that these "people's Courts" will go far towards eliminating the criticism and dissatisfaction hitherto expressed by the Italians against the Allied authorities concerning the latter's alleged weakness in dealing with Fascists and collaborators, and that they will therefore make a considerable contribution to public order and Allied security in the North.

4. The establishment of such Courts calls for some revision of the Allied Internment Procedure which has hitherto been followed, since it is important that Allied security/CI agencies should not be put to an inordinate expense to transport persons whom the Italian authorities wish to bring to early trial before a Special Court of Assize. Not only would it involve a waste of time and effort to arrange for their return from Italy for their trial, but their removal to Italy might be misinterpreted by the Partisans as a form of "protection."

5. In future, therefore, the following procedure will be adopted by CIO/ISS with regard to leading Fascists and German collaborators, etc., whom it is considered necessary to intern on security grounds.

a. Before placing such persons in the nearest PW cage for evacuation to Italy, the CIO/ISS officer concerned will ask either the local President of the Tribunal, or the local Procuratore del Regno, or the President of the Provincial CLM, or their representative, whether or not they wish to try in the near future the person concerned.

b. If the answer is negative, the individual concerned will be interned in the normal way, i.e., dispatched to Italy through PW channels.

c. If the answer is affirmative, he will be handed over to the Italian authorities, who will thereafter be responsible for his custody and confinement. At the same time, they will be informed that he must NOT be released without reference to the nearest Allied Security/CI authority.

d. The consultation with the appropriate Italian authority, as described in a. above, can take place either before or after the actual arrest of the individual.

9c

1. The Italian Government has passed a decree (G.L. No. 249) establishing Special Courts of Assize for newly liberated territory. The decree has been approved by the Allied Commission (whose letter, DF/5,16/2A dated 25 April 1945 referred to).
2. Such Courts, which are to be composed entirely of Italians, are to be set up in each province of N. Italy as soon as possible after its liberation. They are to have jurisdiction to try fascist criminals and German collaborators (past Italian activists), and their purpose is to enable the Italian people themselves to administer quick justice in respect of such persons.
3. It is believed that these "People's Courts" will go far towards eliminating the criticism and dissatisfaction hitherto expressed by the Italians against the Allied authorities concerning the letters allowed to pass in dealing with fascists and collaborators, and that they will therefore make a considerable contribution to public order and Allied security in the North.
4. The establishment of such courts calls for some revision of the Allied internment procedures which are hitherto being followed, since it is important that Allied security/CI agencies should not dispatch as internees to TERNI those persons whom the Italian authorities wish to bring to early trial before a Special Court of Assize. Not only would it involve a waste of time and effort to arrange for their return from TERNI for their trial, but their removal to TERNI might be misinterpreted by the Germans as a form of "protection."
5. In future, therefore, the following procedure will be adopted by CIC/ISS with regard to landing fascists and German collaborators, etc., whom it is considered necessary to intern on security grounds.
 - a. Before placing such persons in the nearest PW cage for evacuation to TERNI, the CIC/ISS officer concerned will ask either the local President of the Tribunals, or the local Procuratore del Reame, or the President of the Provincial CLN, or their representative, whether or not they wish to try in the near future the person concerned.
 - b. If the answer is negative, the individual concerned will be interned in the normal way, i.e., dispatched to TERNI through PW channels.
 - c. If the answer is affirmative, he will be handed over to the Italian authorities, who will then forward be responsible for his custody and confinement. At the same time, they will be informed that he must NOT be released without reference to the nearest Allied Security/CI authority.
 - d. The consultation with the appropriate Italian authority, as described in c. above, can take place either before or after the actual arrest of the individual concerned by CIC/ISS, whichever course appears the more suitable.
 - e. "Arrest Reports" will be made out in respect of those persons arrested by CIC/ISS and handed over to the Italian authorities in accordance with c. above, in the same way as such "Arrest Reports" are made out in respect of normal internment cases, and their distribution will be the same as hitherto. They will, however, indicate whether the individual concerned has been handed over to the Italians or whether he has been evacuated to TERNI.
 - f. The particulars of persons arrested and handed over to the Italians in the manner described above will be included in the fortnightly lists of intern-

ments submitted to this HQ by armies; such lists will show whether the persons concerned were dispatched to IAPMI or handed over to the Italians.

6. Cases are likely to arise in which the appropriate Italian authority, when consulted as to their intention to try certain individuals, will state vaguely that they may wish to do so at a later date and will be uncertain as to whether or not they wish to assume responsibility for the custody of persons concerned. In such cases it should be pointed out to them that, by agreement between IAPMI and the Italian Government, persons informed by the Allies of IAPMI can later be released to the Italian authorities, if required for trial on espionage charges. In general, it is better that they, when the Italians feel that they may wish to try in the distant future should be dispatched to IAPMI rather than held locally in Italian custody, in order not to overcrowd the limited prison accommodation.

7. The procedure described above will not normally be adopted in the case of enemy agents who are arrested by GIP/ISS and whom it is desired to intern, nor need it apply to Fascists etc., of little popular interest who are encountered in provinces other than that of their normal place of residence or work.

8. Finally, in connection with this same subject, attention is drawn to para. 3 of Appendix 1 to this HQ Operations Instruction No. 5, dated 12 April 1945, which lays down that persons who have been implicated as Axis collaborators by the Partisans or GIP prior to the Allied arrival will not, save in exceptional circumstances, be released or removed by the Allied authorities, but will remain at the disposal of the Italian authorities for such action as they may desire to take in pursuance of their operations programme. If there is undue delay on the part of the Italian authorities in dealing with such cases, these are to be removed and the prisoners disposed of by IAPMI in consultation with GIP and the Allied Security authorities. An example of the "exceptional circumstances" referred to above would be the case of persons required for interrogation, e.g., enemy agents, who may be removed by Security/CI agencies, either temporarily or permanently, by arrangement with the Partisans and on to the arrest.

By command of DANIEL BLACK.

OFFICIAL:

/s/ J.E.H. MITCHELL
G.I.S. AIRBORNE
Prisoner, GS
AC of S. G-2.

G. H. GARDNER,
Major General, GSC,
Chief of Staff.

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

AC/4100/L.

ART/pa.
4 May 45.

SUBJECT : Special Section of Court of Cassation.
TO : H. E. The Minister of Pardon and Justice.

1. In view of the rapid march of events Your Excellency will doubtless have commenced to take necessary action under Article 16 of the D.L. No. 142.

2. Although the relevant Decree has not yet been communicated, it is suggested that this Sub-Commission be furnished forthwith with full particulars of the personnel selected to form this Special Section, so that the arrangements for travel permits, transportation, accommodation and the like can be put in hand without loss of time.

del 16
A. R. THACKRAF,
Lt. Colonel,
Italian Branch,
for Chief Legal Advisor.

40920

Legal

7A

HEADQUARTERS EMILIA REGION
 ALLIED MILITARY GOVERNMENT
 APO 394

REF : RIX/LE/704/137

WHL/dsh.
 4 May 1945.

SUBJECT : Special Courts of Assize (Peoples' Courts).

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

1. Art. 1 of DIL 142, 22 April 1945, provides for the constitution of the above in those parts of Italy "now in enemy occupation", and in such other areas as may be specified by further decree. The decree is dated 22 April 1945.

2. Attention is called to the fact that Bologna was liberated on 21 April 1945. As I construe the decree it would not appear to be applicable to Bologna without a further decree of the Lieutenant General of the Realm.

3. Nevertheless, we have gone ahead with the implementation of the decree in Bologna and expect to have the court functioning shortly. I believe it would be advisable, however, to request the Italian Government to issue a further decree extending the court to Bologna Province.

4. At the same time, I believe it would be advisable to provide for the constitution of the court in Forli and Ravenna Provinces. While the provincial capitals of these two provinces were liberated some months ago, they have only just been permitted to commence epuration proceedings under Decree No. 159. General Order No. 35 has never been authorized for posting in either province. I therefore feel that it will be very helpful to have the Peoples' Courts authorized for these two Provinces.

For the Regional Commissioner:

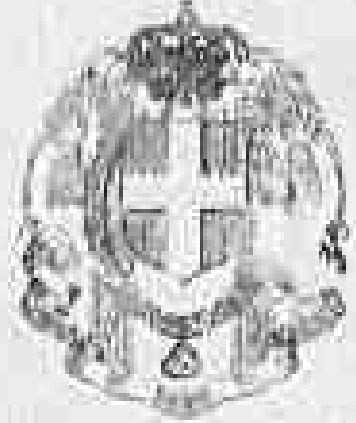
WHL

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

15

Copy to:
 P.C., Bologna.
 P.C., Forli.
 P.C., Ravenna.

01163 01059



MINISTERO DI GRAZIA E GIUSTIZIA

Gabinetto di S.E. il Ministro

MB

Roma, 3 maggio 1945

no. 01/824

Al la Commissione Alleata
Sottocommissione Legale

OGGETTO: Termini per il giudizio
di Cassazione -D.L.L.n.142

R O M A

file

Si trasmette l'unita' promemoria che riflette
il punto di vista del Ministero circa l'abolizione
dei termini per il giudizio in oggetto.

L'UFFICIALE DI COLLEGAMENTO
(Dr. Giorgio Bonelli)

Bonelli

STAMPATO IN ITALIA

14

A P P U N T O

Riguardo all'osservanza dei termini stabiliti per il giudizio sul ricorso in Cassazione, preveduto nel decreto legislativo Lucgetenansiale 22 aprile 1945, n.142, si può osservare:

1) se il ricorso riflette una sentenza di condanna alla pena di morte, il giudizio è necessariamente svincolato dai termini ordinari fissati nel codice di procedura penale, dato che il giudizio stesso deve essere pronunciato dalla Corte nei dieci giorni del ricevimento degli atti. Rientra peraltro nei poteri del Presidente della Corte di stabilire, con disposizione interna, le modalità necessarie per dare al pubblico ministero ed ai difensori la possibilità di esercitare, prima della udienza, le facoltà loro ricordate dalla legge (art. 533 e 534 cod. proc. pen.), rispettato in ogni caso il termine massimo degli accennati dieci giorni;

2) se il ricorso non riflette una sentenza di condanna alla pena di morte, potrebbe apparire che, in mancanza di speciale disposizione, si debba osservare i termini ordinari stabiliti dal codice di procedura penale. Ma si può considerare che l'art. 13 del predetto decreto legislativo 22 aprile 1945, n.142, stabilisce la riunione del termini alla metà, 3' verso che questo articolo, perché collocato subito dopo le norme sul giudizio della Corte straordinaria di Assise, parrebbe che dovesse riflettere soltanto tale giudizio; ma, attesa la sua formulazione di carattere generale, sembra possibile una più larga interpretazione, considerando la riunione dei termini stabilita generalmente per tutti i giudizi a cui si riferisce il decreto, compreso quindi quello di cassazione.

Addi 2 giugno 1945.

13

22 aprile 1945, n.142, si può osservare:

1) se il ricorso riflette una sentenza di condanna alla pena di morte, il giudizio è necessariamente svincolato dai termini ordinari fissati del codice di procedure penale, dato che il giudizio stesso deve essere pronunziato dalla Corte nei dieci giorni dal ricevimento degli atti. Rientra però retro nei poteri del Presidente delle Corti di stabilire, con disposizione in interme, le modalità necessarie per dare al pubblico ministero ed ai difensori la possibilità di esercitare, prima della udienza, le facoltà loro accordate dalla legge (art. 533 e 534 cod. proc. pen.), rispettato in ogni caso il termine massimo degli accennati dieci giorni;

2) se il ricorso non riflette una sentenza di condanna alla pena di morte, potrebbe apparire che, in mancanza di speciale disposizione, si debba osservare i termini ordinari stabiliti dal codice di procedura penale. Ma si può considerare che l'art. 15 del prefetto decreto legislativo 22 aprile 1945, n.142, stabilisce la riduzione dei termini alla metà. E' vero che questo articolo, perché collocato subito dopo la norma sul giudizio della Corte straordinaria di Assise, parrebbe che dovesse riflettere soltanto tale giudizio; ma, attesa la sua formulazione di carattere generale, senza possibilità una più larga interpretazione, considerando la riduzione dei termini stabilita generalmente per tutti i giudici e cui si riferisce il decreto, compreso quindi quello di cassazione.

Addi 2 giugno 1945.

IL CAPO DELL'UFFICIO LEGISLATIVO

G. Agnati
AZZARITI

~~418/4~~ IL PROCURATORE GENERALE
presso la Corte d'Appello di Milano

Visto l'ART. 10 del decreto legislativo luogotenenziale 22 Aprile
1945 N° 142, entrato in vigore il 2 Maggio 1945,

D E C R E T A

E' istituito presso la Corte straordinaria di Assise avente sede in
Milano, un ufficio di Pubblico Ministero, così composto/

Magistrati:

Pott. ALFERO Leonardo	Sostituto Procuratore Generale.
" TRIBUZIO Antonio	" " "
" D'OSIO Lamberto	" " "
" DEBETTI Carlo	Consigliere di Appello
" LEOPARDI Giuseppe	Giudice
" PARAVISZINI Giuseppe	"
" CITELLI Vito	"
" ABBAMONTE Francesco	"
" CARUSO Pietro	"
" ODORISIO Giuseppe	"
" MIGLIAU Giuseppe	Sostituto Procuratore Tribunale
" FRISARI Vito	" " "
" LAUROGA Domenico	Pretore
" LAGROTTA Gaetano	"
" Sagone Giuseppe	"
" DE MURA Giovan Maria	"
" FABRIZI Enrico	"
" VITIBELLO Alfredo	"
" VENTURA Sebastiano	"

	Ufficio di Segreteria
Hag. Guelli Giuseppe	Cancelliere
IBEO Salvatore	Aiutante di Cancelleria
CERCI Angelantonio	Cancelliere)
Hag. BRUNO Francesco Paolo	"
PAPARO Giuseppe	"
BONNIGI Sofia	"
MARINO Tullio	"
FURNARI Antonino	"
PAOLUCCI Renato	"

Uscere

MARUCCI Giovanni

Milano, 8 Maggio 1945

IL PROCURATORE GENERALE

F.to CIACCIA

Per copia conforme
Milano, 8 Maggio 1945
IL SEGRETARIO

(5A)

R. COE D'APPELLO DI MILANO

Milano, 8 Maggio 1945

Illustrissimo Signor

It. Col. G. S. HANNAKOFF
Allied Control Commission

Oggetto: Corti Straordinarie di Assise..

In seguito alla conferenza avuta ieri con la S. V. I. ho riasa-
minato insieme col Commissario di Giustizia i nomi dei Magistrati
che proporre per la presidenza delle Corti Straordinarie di Assise
di nuova istituzione e d'accordo con lo stesso, ho comunicato la se-
guente lista definitiva.

M I L A N O

I Sezione: Cav. Uff. Merantoulo Luigi Consigliere di Cassazione
Grado IV = Presidente.

" " Motting C. Battista Consigliere di Corte di
Appello = Grado V = Presidente
supplente

II Sezione: " " Rebugno Domenico = Consigliere di Corte d'Apel-
lo = Grado V = Presidente.

III Sezione Cav. Sarenò Matteo
Consigliere di Corte d'Appello
Grado V. Presidente.

C O M O

Cav. Console Raffaele. Consigliere d'Appello = Grado V = Presidente.

Cav. Uff. Maccone Dante
P A V I A
Consigliere di Corte d'Appello =
Grado V = Presidente.

S O N D R I O

Cav. Uff. Accorpa Ettore =
M A R T S E
Consigliere di Corte d'Appello
Grado V = Presidente.

Cav. Uff. Poppi Alberto = Consigliere di

Oggetto: Corti Straordinarie di Assise. =

In seguito alla conferenza avuta ieri con le S. V. I. ho rias-
minato insieme col Commissario di Giustizia i nomi dei Magistrati
da proporre per la presidenza delle Corti Straordinarie di Assise
di nuova istituzione e d'accordo con lo stesso, ho comunicato la se-
guente lista definitiva.

M I L A N O

- I Sezione: Cav. Uff. Merantonio Sella Consigliere di Cassazione
Grado IV = Presidente.
- " " " " Mottino G. Battista Consigliere di Corte di
Appello - Grado V = Presidente
supplente
- II Sezione: " " " " Medugno Domenico Consigliere di Corte d'Apel-
lo - Grado V = Presidente.
- III Sezione Cav. Marano Matteo
Consigliere di Corte d'Appello
Grado V. Presidente.

C O M O

- Cav. Console Raffaele. Consigliere d'Appello - Grado V = Presidente. **11**
- Cav. Uff. Maccone Dante P A V I A
Consigliere di Corte d'Appello -
Grado V = Presidente.
- Cav. Uff. Accorpa Ettore S O R E R I O
Consigliere di Corte d'Appello
Grado V = Presidente.

P A R E S E

- Cav. Uff. Loppi Alberto = Consigliere di Corte d'Appello = Grado V =
Presidente.

Voglio gradire i miei essequi.
Il primo presidente
ALEO GARRUCCERA.

file ~~41871~~ 2 com's (4A)

CORTE D'APPELLO DI MILANO

ELENCO DEI MAGISTRATI CHE POTREBBERO FAR PARTE DELLA CORTE DI CASSAZIONE DA ISTRUIRSI IN MILANO.

Cav.UFF. Bricchetti Giovanni	Consigliere di Cassazione con funzioni di presidente di Sezione della C.A. di Milano, promosso a tale grado con R.D.
Comm. Guidi Umberto	Già consigliere della C.A. di Milano, promosso con Decreto del sedicente Governo repubblicano, consigliere della Corte di Cassazione di Brescia.
Cav.UFF. Primiceri Umberto	come al numero due
Cav.UFF. Schiralli Giuseppe	idem
Cav.UFF. Petrone Modesto	idem - non ha ancora preso possesso alla C.C. di Brescia
Cav.UFF. Condiarini Alceste	come al numero 2 e 3
Cav.UFF. Davide Ugo <i>Levi</i>	già sostituto procuratore generale presso la Procura Generale di Milano. Dimesso dal servizio in applicazione della legge razziale per la sua appartenenza alla razza ebraica. Sollecita il suo richiamo in servizio.
Cav.UFF. Iavarone Francesco	Consigliere della Corte di Appello di Milano.

Tutti i suddetti magistrati non si trovano, per quanto consta, nelle edizioni previste dagli articoli 11, 12, 13 e 14 del Decreto Legislativo Elettoriale 27 luglio 1944 N. 159.

Mancano altri magistrati del grado quarto che possono essere destinati ai funzioni suddette a meno che non si intendesse destinare a tale incarico tutti i presidenti di Sezione della Corte d'appello

*il primo presidente
a carteggio*

4042-3A

Art. 1

Extraordinary Courts of Justice shall be set up in the Italian territories which are at present occupied by the enemy and in those which will be included by decree of the President of the Council of Ministers.

The extraordinary Courts of Justice shall have jurisdiction over all persons who, after the so-called Italian Social Republic was set up:

(a) = have held offices as Ministers or Ministers-Deputies in the so-called Government of the Italian Social Republic;

(b) = have been parliamentarians or members of the Special Tribunal for the Defense of the State or of the extraordinary tribunals set up by the said Government, or have acted as public prosecutors therein;

(c) = have held the office of a province or federal assembly or Federal assembly or any other like offices;

(d) = have been authors of political newspapers;

(e) = have been officers in black shirts;

(f) = or have committed crimes against the loyalty to and the defense of the State as provided for by Art. 5 of R.L. No. 193, of July 27, 1944.

In the cases contemplated in the preceding paragraph shall be applied in accordance with the above mentioned Art. 5 the penalties set out in the military penal code of war.

The extraordinary Courts of Justice shall have jurisdiction also over those crimes contemplated in para 2 here which, according to the provisions at present in force, come within the jurisdiction of the military tribunals.

Art. 2

The extraordinary Courts of Justice shall have jurisdiction also over the

persons who, after the so called Italian Social Republic was set up:

(a) = have held offices as high as in or their superiors in the so called Government of the Italian Social Republic;

(b) = have been members or members of the Special Tribunal for the Defense of the State or of the extraordinary tribunals set up by the said Government, or have acted as public prosecutors therein;

(c) = have held the office of a province or federal authority or federal commissary or any other like offices;

(d) = have been officers of political commissars;

(e) = have been officers in black shirts units;

(f) = or have committed crimes against the loyalty to and the defense of the State as provided for by art. 5 of the No. 159, of July 27, 1944.

In the case contemplated in the preceding paragraph shall be applied in accordance with the above mentioned art. 5 the penalties set out in the military penal code of war.

The extraordinary Courts of Justice shall have jurisdiction also over those crimes contemplated in para 2 above which, according to the provisions at present in force, come within the jurisdiction of the military tribunals.

ART. 2

The extraordinary Courts of Justice shall have jurisdiction also over the offenses described in art. 3 of the No. 159 of July 27, 1944, whenever they have been committed by a person who is accused of any of the crimes contemplated in the preceding article.

11.

The extraordinary Courts of Justice shall be established in the capital towns of each province.

By decree of the First President of the Court of Appeal may be set up sections of the said Courts. The sections may be held in localities other than the capital town.

ART. 4

CML in each province capital town, in agreement with the CML of other important centres of ^{the} province, shall within 7 days from the date of liberation of such province, make up a list of not less than 150 citizens of proven moral and political probity; and shall submit it to the President of the Tribunal of the said capital town.

The President of the Tribunal shall within 7 days make up a list of 50 popular judges, selected from among those designated by the CML, after having ascertained that they are of proven ^{moral} probity and of unquestionable political precedents. In making up such list, preference shall be given to those who have fought against the German invader.

In provinces whose population exceeds one million there shall be appointed 75 popular judges and the list contemplated in para 1 above shall contain not less than 200 names.

ART. 5

The extraordinary Courts of Justice shall be composed of a president and of 4 popular judges.

section 6. The said courts. The sections may be held in localized other than the capital town.

Art. 4

613 In each province entitled town, in agreement with the CIB of other important ^{the} places of provinces, shall within 7 days from the date of institution of such province, make up a list of not less than 150 citizens of proven moral and political probity; and shall submit it to the president of the Tribunal of the said capital town.

The president of the Tribunal shall within 7 days make up a list of 50 popular judges, selected from among those designated by the list, after having ascertained that they are of proven ^{moral} probity and of irreproachable political possessions. In making up such list, preference shall be given to those who have fought against the German invader.

In provinces whose population exceeds one million there shall be appointed 75 popular judges and the list contemplated in item 1 above shall contain not less than 200 names.

Art. 5

The extraordinary Courts of Justice shall be composed of a president and of 4 popular judges.

The president shall be appointed by the chief president of the Court of Appeals and shall be chosen from among magistrates of grade not inferior to that of Councillor of Court of Appeals. The popular judges are drawn from the lists mentioned in the preceding article.

11.

= 3 =

ART. 6

The sections of extraordinary Court of Assizes, set up in accord with the provisions of Art. 2, shall be composed in the same manner as set out in Art. 5.

ART. 7

Whenever the capital where the competent Court of Appeal has its seat has not yet been liberated, the first president of the nearest Court of Appeal shall be called upon to provide instead.

ART. 8

The rules of the consolidated text of the legislative provisions on the organization of the Courts of Assizes, in so far as they may apply, shall be observed.

ART. 9

An office of Public Prosecutor shall be set up at each extraordinary Court of Assizes by order of the Attorney General at the Court of Appeal, which shall be issued within ten days from the liberation of the province.

The Office is composed of magistrates. Lawyers of spotless-moral conduct and unquestionable political antecedents, of experience and ability selected from among those chosen by the National Liberation Committee, may be called to participate in it.

Whenever the headtown where the competent Court of Appeal has its seat/^{has} not yet been liberated, the functions described by the precedent article shall be performed by the Attorney General of the nearest Court of Appeal.

Whenever the capital where the competent Court of Appeal has its seat has not yet been liberated, the first president of the nearest Court of Appeal shall be called upon to provide instead.

ART. 8

The rules of the consolidated text of the legislative provisions on the organization of the Courts of Justice, in so far as they may apply, shall be observed.

ART. 9

An office of Public Prosecutor shall be set up at each extraordinary Court of Assizes by order of the Attorney General at the Court of Appeal, which shall be issued within ten days from the liberation of the province.

7

The Office is composed of magistrates. Lawyers of spotless moral conduct and unblemishable political antecedents, of experience and ability selected from among those chosen by the National Liberation Committee, may be called to participate in it.

Whenever the headtown where the competent Court of Appeal has its seat/ort has not yet been liberated, the functions described by the precedent article shall be performed by the Attorney General of the nearest Court of Appeal.

ART. 10

Whenever extraordinary Courts of Assizes are set up in the territories indicated by the decree of the President of the Council of the Ministers in accordance with the first para of art. 1, the time limits indicated in Art. 4, 5 and 9 shall run from the publication of the said decree in the "Gazzetta Ufficiale".

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= 4 =

ART. 11

Relatives and allied persons within the third degree shall not be members of the Extraordinary Court of Assizes nor perform before this Court the functions of Judge and of Public Prosecutor.

ART. 12

("Corte Civile")

Claims for civil damages shall not be admitted before the Extraordinary Courts of Assizes.

ART. 13

The time-limits fixed in the Code of Penal Procedure for the pre-trial investigation and the hearing shall be reduced by one half.

ART. 14

The crimes falling within the jurisdiction of the Extraordinary Courts of Assize are investigated by summary procedure by the offices of "Pubblico Ministero" referred to in Art. 9.

provided that the conditions set out in Art. 502 of the Code of Penal Procedure, second paragraph, are respected ^{he} E.S. may order to prosecute with the "giudizio direttissimo" whenever/in of the opinion that there is sufficient evidence on the culpability of the accused person.

ART. 15

Appeal to Cassation against the decisions of the Extraordinary Courts of Assizes shall be admitted in such cases and within such time limits as are provided by the code of penal procedure in regard to the decisions of the

ART. 12

("Parto Civile")

Claims for civil damages shall not be admitted before the Extraordinary Courts of Assizes.

ART. 13.

The time-limits fixed in the Code of Criminal Procedure for the pre-trial investigation and the hearing shall be reduced by one half.

ART. 14.

The crimes falling within the jurisdiction of the Extraordinary Courts of Assize are investigated by summary procedure by the offices of "Pubblico Ministero" referred to in Art. 5.

Provided that the conditions set out in Art. 502 of the Code of Penal Procedure, second paragraph, are respected ^{he} F.M. may order to prosecute with the "giudicio direttissimo" whenever/is of the opinion that there is sufficient evidence on the culpability of the accused person.

ART. 15

Appeal to Cassation against the decisions of the Extraordinary Courts of Assizes shall be admitted in such cases and within such time limits as are provided by the code of penal procedure in regard to the decisions of the Court of Assize. Appeal shall be disposed of by a special section of the Court of Cassation which may sit even in a place other than Rome to be determined by order of the Minister for Rardon and Justice.

If the Court of Cassation cancels the decision and orders a new hearing it shall also indicate the extraordinary Court of Assize to which the decision shall be deferred.

= 5 =
Art. 16

The grounds on which the appeal to this court may be heard shall be lodged within the same time limits as for a normal appeal; such appeal shall be otherwise rejected.

The time limits for opposition by the D.M. shall be reduced to five days. Decisions on appeals of sentences of death shall be given by the Court of Cassation within ten days from the date on which the appeal has been lodged.

Art. 17

The jurisdiction of the extraordinary court of appeal shall cover to an extent six months after the effective date of this decree and the entire death with by this decree shall then be dealt with in accordance with the rules of normal procedure.

4092 (2A)

D E F A S S I S K

Will on Courts of Assize

The Italian version of this decree is the only authoritative text. The version herein is not a literal translation; its object is to inform officers conveniently of the provisions contained in the decree. Words in brackets do not appear in the original text.

Articles are referred to the Italian text for all points of detail or matters of procedure or dispute.

Institution and Jurisdiction	Arts 1-3	12, 16
Attribution of Court and its offices	" 4-11	
Procedure	" 13-15	
Appeals	" 16-17	
Prison	18	
Announcement	19	

INSTITUTION AND JURISDICTION

1. Special Courts of Assize are hereby constituted for that part of Italy now in enemy occupation and for such other areas as may be specified by Decree of the Government of the Realm on the proposal of the President of the Council of Ministers.

Such Special Courts of Assize shall have jurisdiction to try any person who, after 8 September 1943 has committed an offence under Art 5 of D.L. 159 of 27 Jul 1944 against the loyalty to and the defence of the State by informing, corresponding or collaborating with the German invaders or by in any way helping or assisting them.

Any person who after the creation of the so-called Italian Social Republic has held any of following posts or exercised any of the following functions shall be deemed without further proof to have collaborated with the German invaders and to have given them help and assistance:

- 1) Minister or Under Secretary of State in the so-called government of the Italian Social Republic; or a national executive office in the republican fascist party;
 - 2) President or member of the special tribunal for the defence of the State or of any special tribunal set up by the said government; or public prosecutor before any such tribunal;
 - 3) Head of a Province, Federal Secretary or Commissioner or any like office;
 - 4) Editor of any political newspaper;
 - 5) Senior officer in any black shirt unit exercising any function of a political or military nature.
- Any person who, in any of the said posts or in the exercise of any of the said functions has assumed greater responsibilities and, any person who has held any posts mentioned in 1 and 2 of the preceding para shall be punishable under Art 51 and 54 of the C.P.A., in any other case under Art 50.
- Where any act is an offence under any other law, the penalty prescribed by the C.P.A. shall remain applicable.

2. The Special Courts of Assize shall have jurisdiction to try an offence under Art 5 of D.L. 159 of 27 Jul 44 committed by any person accused of any crime described in the preceding article.

3. A Special Court of Assize shall be established in the capital town of each

1-3 12, 18
4-11
12-17
16-17
18
19

Division of Court and its offices
President
President
President
President

INSTITUTION AND JURISDICTION

1. Special Courts of Assize are hereby constituted for that part of Italy now in enemy occupation and for such other areas as may be specified by Decree of the Government of the Republic on the proposal of the President of the Council of Ministers.

Such Special Courts of Assize shall have jurisdiction to try any person who, after 8 September 1943 has committed an offence under Art 5 of D.L. 159 of 27 Jul 1944 against the loyalty to and the defence of the State by informing, corresponding or collaborating with the German invaders or by in any way helping or assisting them.

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- 1) Minister or Under Secretary of State in the so-called government of the Italian Social Republic; or a national executive office in the republican fascist party;
- 2) President or member of the special tribunal for the defence of the State or of any special tribunal set up by the said government; or public prosecutor before any such tribunal;
- 3) Head of a Province, Federal Secretary or Commissioner or any like office;
- 4) Editor of any political newspaper;
- 5) Senior officer in any black shirt unit exercising a political or military activity.

Any person who, in any of the said posts or in the exercise of any of the said functions has assumed greater responsibilities and, any person who has held any post mentioned in 1 and 2 of the preceding para shall be punishable under Art 51 and 54 of the CPC, in any other case under Art 58.

Where any act is an offence under any other law, the penalty prescribed by the CPC shall remain applicable.

2. The Special Courts of Assize shall have jurisdiction to try an offence under Art 3 of D.L. 159 of 27 Jul 44 committed by any person accused of any crime described in the preceding article.

3. Special Court of Assize shall be established in the capital town of each Province.

Sections of the said Court which may sit elsewhere than in the capital town may be set up by Decree of the President of the Court of Appeal.

ORGANIZATION OF COURT AND ITS OFFICES

4. In territory still in enemy occupation the time limits contained in arts 5, 6 and 10 shall commence on the day on which this Decree becomes operative in such territory as laid down by Art 19.

When any Special Court of Assize is set up under the powers contained in the first para of Art 4 in any area specified by Decree of the President of the Council of Ministers, the time limits laid down in art 5, 6 and 10 shall run from

the publication of the said decree in the "Gazzetta Ufficiale". In territory not yet restored to Italian Administration such time limits shall commence on the day the above-mentioned decree becomes operative by order of the Allied Military Government.

5 Within 7 days (from the date of liberation of any province) the CNL in such provincial capital shall, conjointly if necessary with the CNL of other important centres of the province, make a list of not less than 100 citizens of full age and of accepted moral and political probity and submit the same to the President of the Tribunal of the said capital.

Within the 7 days next following, the President of the Tribunal shall, after having satisfied himself of the moral probity and irreproachable political antecedents of the said persons, select from the said list 50 persons as lay assessors.

When the population of any province exceeds one million the list referred to in para 4 hereof shall consist of not less than 150 names and the number of lay assessors to be selected therefrom shall be 75.

6 A Special Court of Assize shall consist of a President and 4 lay assessors. The President shall be appointed by the First President of the Court of Appeal and shall be selected by him from magistrates of grade not lower than Councilor of the Court of Appeal. The appointment shall be made within 10 days. The lay assessors shall be drawn from the list mentioned in the preceding article.

A Deputy President may be appointed by a similar procedure.

7 A Section of the Special Court of Assize constituted in accordance with Art 5 shall be composed as set out in Art 6.

8 Whenever any provincial capital in which the competent Court of Appeal has its seat has not been liberated, the First President of the nearest Court of Appeal shall be competent to and shall exercise the power to appoint the President.

9 The consolidated text of the legislative provisions dealing with the Organization of the Courts of Assize shall so far as the same is applicable, be observed and followed. The oath shall be taken in accordance with Art 2 of D.L. 290 of 5 October 1944.

10 Within 10 days (from the liberation of any Province) the Procurator General of the Court of Appeal for that Province shall by order set up for each Special Court of Assize a Public Prosecutor's office. The number and grade of the judicial officers appointed to such office shall be stated in the order establishing the office.

The office shall consist of magistrates, together with such experienced and able lawyers of spotless moral conduct and irreproachable political antecedents, as may be selected to act therein from lists prepared by the National Liberation Committee.

Whenever any provincial capital in which the competent Court of Appeal has its seat has not been liberated, the functions described in the above paragraphs shall be exercised by the Procurator General of the nearest Court of Appeal.

11 No parent or relative of the third or nearer degree (of any accused person) shall sit as a lay assessor on any Special Court of Assize nor act as public prosecutor in any trial before such Court.

antecedents of the said persons, select from the said list 50 persons as lay assessors.

When the population of any province exceed one million the list referred to in art. 4 heretofore shall consist of not less than 150 names and the number of lay assessors to be selected therefrom shall be 75.

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11 No parent or relative of the third or nearer degree (of any accused person) shall sit as a lay assessor on any Special Court of Assize nor act as Public Prosecutor in any trial before such Court.

EXCLUSION OF JURISDICTION

12 Claims for civil damages shall not be entertained by any Special Court of Assize.

PROCEDURE

13 The time limits established by the Code of Penal Procedure for the pre-trial investigation and for hearing are reduced to one half.

14 Any crime within the jurisdiction of a Special Court of Assize shall be investigated by summary procedure in the offices of the Public Prosecutor referred to in art. 10.

Whenever he is of opinion that there is a prima facie case against the accused the Public Prosecutor may, provided that the conditions set out in the

second part of Art 502 of the Code of Penal Procedure are observed, order that the trial shall proceed by "giudizio direttissimo".

15 Sentences of the Special Courts of Assize shall be filed within five days of their pronouncement.

APPEALS

16 Appeal to Decree (an appeal against the decisions of any Special Court of Assize shall be allowed in two cases and within such time limits as are laid down by the Code of Penal Procedure with regard to the decisions of a Court of Assize.

Any such appeal shall be heard by a special section of the Court of Cassation instituted by decree of the Minister of Justice. Such Section of the Court of Cassation shall consist of five members and may sit elsewhere than at the ordinary seat of the Court of Cassation.

If the Court of Cassation shall quash any decision and order a new trial it shall name the Special Court of Assize to which the case shall be referred.

17 The grounds for an appeal to Cassation shall be lodged within 3 days after the filing of the sentence; no appeal submitted after that date shall be entertained.

The time limits for lodging any appeal by the Public Prosecutor is reduced to five days.

The decision on any appeal against sentence of death shall be announced by the Court of Cassation within ten days from the day on which it receives the relative papers. Such papers shall be transmitted without delay and in any event not later than the day before that on which the grounds for appeal must be submitted.

CASSATION

18 The jurisdiction of Special Courts of Assize and of the Special Section of the Court of Cassation shall cease six months after the day on which this decree comes into force and offences set out in this decree shall thereafter be dealt with according to the previously existing rule as to jurisdiction.

GENERAL

19 This decree shall come into force on the day following its publication in the Official Gazette of the Kingdom; (except that) in territories not liberated or if liberated not restored to the Italian administration it shall become operative on such day as may be ordered by the Allied Military Government.

of Cassation shall consist of five members and may sit elsewhere than at the ordinary seat of the Court of Cassation.

If the Court of Cassation shall quash any decision and order a new trial it shall name the Special Court of Assize to which the case shall be referred.

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CASSATION

18 The jurisdiction of Special Courts of Assize and of the Special Section of the Court of Cassation shall cease six months after the day on which this decree comes into force and offences set out in this decree shall thereafter be dealt with according to the previously existing rules as to jurisdiction.

COMPLETION

19 This decree shall come into force on the day following its publication in the Official Gazette of the Kingdom; (except that) in territories not liberated or if liberated not restored to the Italian Administration it shall become operative on such day as may be ordered by the Allied Military Government.

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Co. corrente con la Posta *IA*

Supplemento ordinario alla "Gazzetta Ufficiale", n. 49 del 24 aprile 1945

GAZZETTA UFFICIALE
PARTE PRIMA DEL REGNO D'ITALIA



DIREZIONE E REDAZIONE PRESSO IL MINISTERO DI GRAZIA E GIUSTIZIA - UFFICIO PUBBLICAZIONE DELLE LEGGI - TELEF. 50-139 51-236 51-554

DECRETO LEGISLATIVO LUOGOTENENZIALE 22 aprile 1945, n. 142.

**Istituzione di Corti straordinarie di
Assise per i reati di collaborazione
con i tedeschi.**

**Disposizioni e comunicati del Go-
verno Militare Alleato.**

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2

LEGGI E DECRETI

DECRETO LEGISLATIVO LUOGOTENENZIALE 22 aprile 1945, n. 142.

Istituzione di Corti straordinarie di Assise per i reati di collaborazione con i tedeschi.

UMBERTO DI SAVOIA

PRINCIPE DI PIEMONTE

LUOGOTENENTE GENERALE DEL REGNO

In virtù dell'autorità a Noi delegata;

Visto il decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, e successive integrazioni;

Visto il decreto-legge Luogotenenziale 25 giugno 1944, n. 151;

Visto il decreto legislativo Luogotenenziale 1° febbraio 1945, n. 58;

Vista la deliberazione del Consiglio dei Ministri;

Sulla proposta del Presidente del Consiglio dei Ministri, Primo Ministro Segretario di Stato, di concerto con tutti i Ministri;

Abbiamo sanzionato e promulghiamo quanto segue:

Art. 1.

Nei territori italiani, attualmente sottoposti alla occupazione nemica ed in quegli altri che verranno indicati con decreti Luogotenenziali, su proposta del Presidente del Consiglio dei Ministri, sentito il Consiglio dei Ministri, saranno istituite Corti straordinarie di Assise.

Le Corti straordinarie di Assise sono competenti a giudicare coloro che, posteriormente all'8 settembre 1943, abbiano commesso i delitti contro la fedeltà e la difesa militare dello Stato, previsti dall'art. 5 del decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, con qualunque forma di intelligenza o corrispondenza o collaborazione col tedesco invasore o di aiuto o di assistenza ad esso prestata.

Si considera in ogni caso che abbiano collaborato col tedesco invasore, o che gli abbiano prestato aiuto od assistenza, coloro che hanno rivestito una delle seguenti cariche o svolto una delle seguenti attività, successivamente all'instaurazione della cosiddetta repubblica sociale italiana:

1) ministri o sottosegretari di stato del sedicente governo della repubblica sociale italiana o cariche direttive di carattere nazionale nel partito fascista repubblicano;

2) presidenti o membri del tribunale speciale per la difesa dello stato o dei tribunali straordinari istituiti dal predetto governo ovvero vi abbiano sostenuto la pubblica accusa;

3) capi di provincia o segretari o commissari federali od altre equivalenti;

4) direttori di giornali politici;

5) ufficiali superiori in formazioni di camicie nere con funzioni politico militari.

Coloro che, nelle cariche e funzioni sopra elencate, hanno assunto più gravi responsabilità e, in ogni caso, coloro che hanno ricoperto le cariche o esercitato le funzioni indicate nei numeri 1 e 2 del comma precedente sono puniti con le pene stabilite dagli articoli 51 e 54 del Codice penale militare di guerra; negli altri casi, si applica l'art. 58 del Codice stesso.

Quando i fatti commessi integrino altre figure di reato, sono salve le pene relative, a termini del Codice penale militare di guerra.

Art. 2.

Le Corti straordinarie di Assise sono competenti a giudicare anche reati contemplati dall'art. 3 del decreto legislativo Luogotenenziale 27 luglio 1944, n. 159, commessi da chi sia imputato di reati previsti nell'articolo precedente.

Art. 3.

Le Corti straordinarie di Assise sono istituite nel capoluogo di provincia.

Con decreto del Primo presidente della Corte d'Appello possono essere istituite sezioni delle Corti predette. Le sezioni possono giudicare in località diverse dal capoluogo.

Art. 4.

Per i territori ancora sottoposti all'occupazione nemica, i termini stabiliti nei successivi articoli 5, 6 o 10 decorreranno dalla data in cui il presente decreto entrerà in vigore nei territori stessi ai sensi dell'articolo 19.

Nei casi in cui le Corti straordinarie di Assise sono istituite nei territori indicati dal decreto di cui al primo comma dell'art. 1, i termini indicati nel comma precedente decorreranno dalla pubblicazione del decreto anzidetto nella *Gazzetta Ufficiale* del Regno. Se si tratta di territori non ancora restituiti all'Amministrazione Italiana, i termini decorreranno dalla data in cui il decreto di cui sopra sarà reso esecutivo con ordinanza del Governo Militare Alleato.

Art. 5.

Entro sette giorni i Comitati di Liberazione Nazionale del capoluogo, d'intesa eventualmente con i Comitati di Liberazione Nazionale di altri importanti centri della provincia, compilano un elenco di almeno cento cittadini maggiorenti di illibata condotta morale e politica e lo presentano al presidente del Tribunale del capoluogo.

Il Presidente del Tribunale, entro i successivi sette giorni, compila l'elenco di cinquanta giudici popolari, scegliendoli fra quelli designati dai Comitati di Liberazione Nazionale, previo accertamento che si tratti di persone di illibata condotta morale o di ineccepibili precedenti politici.

Se si tratta di provincie con popolazione superiore ad un milione di abitanti, i giudici popolari devono

essere nominati in numero di settantacinque e l'elenco previsto nel primo comma deve comprendere i nomi di almeno centocinquanta persone.

Art. 6.

Le Corti straordinarie di Assise sono composte di un presidente e di quattro giudici popolari.

Il presidente è nominato dal Primo presidente della Corte d'Appello competente, fra i magistrati di grado non inferiore a quello di consigliere di Corte d'Appello. La nomina è disposta entro dieci giorni. I giudici popolari sono estratti a sorte dagli elenchi compilati a norma del precedente articolo.

Nei stessi modi può essere nominato un presidente supplente.

Art. 7.

Le sezioni di Corte straordinaria di Assise, istituite ai sensi dell'art. 3, sono composte negli stessi modi indicati nell'art. 6.

Art. 8.

Qualora il capoluogo dove ha sede la Corte d'Appello competente non sia ancora liberato, il Primo presidente della Corte d'Appello più vicina.

Art. 9.

Si osservano, per quanto applicabili, le norme del testo unico delle disposizioni legislative sull'ordinamento delle Corti di Assise, e, per quanto attiene al regolamento, l'art. 2 del decreto legislativo Luogotenenziale 5 ottobre 1914, n. 290.

Art. 10.

Presso ogni Corte straordinaria di Assise è istituito un ufficio di pubblico ministero, con provvedimento emanarsi entro dieci giorni. Nel provvedimento saranno indicati il numero e il grado dei magistrati adibiti all'ufficio stesso.

Dell'ufficio di pubblico ministero possono essere chiamati a far parte anche avvocati di illibata condotta morale, di ineccepibili precedenti politici e di provata capacità, scelti fra quelli designati dal Comitato di Liberazione Nazionale.

Qualora il capoluogo dove ha sede la Corte d'Appello competente non sia stato ancora liberato, le attribuzioni previste nel presente articolo sono esercitate dal procuratore generale della Corte di Appello più vicina.

Art. 11.

Non possono far parte della medesima Corte straordinaria di Assise oppure assolvere davanti alla medesima Corte le funzioni di giudice e di pubblico ministero i parenti e gli affini entro il terzo grado.

Art. 12.

Innanzi alle Corti straordinarie di Assise non è ammessa costituzione di parte civile.

Art. 13.

I termini stabiliti dal Codice di procedura penale per la istruttoria ed il giudizio sono fissati alla metà.

Art. 14.

Per i reati di competenza delle Corti straordinarie di Assise si procede con istruttoria sommaria a cura degli uffici di pubblico ministero di cui all'art. 10.

Il pubblico ministero, nei casi in cui ritenga che sussistano prove esaurienti sulla colpevolezza dell'imputato, può ordinare che si proceda a giudizio direttissimo, sempre che ricorrano le condizioni stabilite nel secondo comma dell'art. 502 del Codice di procedura penale.

Art. 15.

Le sentenze delle Corti straordinarie di Assise debbono essere depositate entro cinque giorni dalla pronuncia.

Art. 16.

Contro le sentenze delle Corti straordinarie di Assise è ammesso il ricorso per Cassazione nei casi e nei termini stabiliti dal Codice di procedura penale per le sentenze delle Corti di Assise.

Il ricorso è deciso da una Sezione speciale provvisoria della Corte di Cassazione istituita con decreto del Ministro per la grazia e giustizia. La Sezione giudica con l'intervento di cinque componenti e può funzionare temporaneamente anche fuori della sede ordinaria.

In caso di annullamento con rinvio, la Corte di Cassazione determina a quale Corte straordinaria di Assise debba essere rimesso il giudizio.

Art. 17.

I motivi del ricorso per Cassazione devono essere presentati, a pena di inammissibilità, entro tre giorni dall'avvenuto deposito della sentenza.

Il termine per l'impugnativa da parte del pubblico ministero è ridotto a cinque giorni.

Quando si tratta di impugnativa di sentenza che abbiano inflitto la pena di morte, il giudizio della Corte di Cassazione deve essere pronunciato nei dieci giorni dal ricevimento degli atti. Gli atti debbono essere trasmessi immediatamente e in ogni caso non oltre il giorno successivo a quello della presentazione dei motivi del ricorso.

Art. 18.

Decorso sei mesi dall'entrata in vigore del presente decreto, cessa la competenza delle Corti straordinarie di Assise e della Sezione speciale della Corte di Cassazione o i delitti preveduti dal presente decreto sono devoluti secondo le ordinarie norme di competenza.

Art. 19.

Il presente decreto entrerà in vigore il giorno successivo a quello della sua pubblicazione nella Gazzetta Ufficiale del Regno; nei territori non liberati o, se liberati, non trasferiti all'Amministrazione italiana entrerà in vigore il giorno in cui esso sarà reso esecutivo con ordinanza del Governo Militare Alleato.

Ordiniamo che il presente decreto, munito del sigillo dello Stato, sia inserito nella Raccolta ufficiale delle leggi e dei decreti del Regno d'Italia, mandando a chiunque spetti di osservarlo e di farlo osservare come legge dello Stato.

Dato a Roma, addì 22 aprile 1945

UMBERTO DI SAVOIA

BONOMI — ROBINÒ — TOGLIATTI —
BROSIO — DE GASPERI — TUPINI
— PESENTI — SOLERI — CASATI —
DE COURTEN — GASPAROTTO —
ARANCIO-RUIZ — RUINI — GUELLO
— CERARDONA — CEVOLOTTI —
GRONCHI — SCOCCIMARRO

Visto, il Guardasigilli: TUPINI

Registrato alla Corte dei conti, addì 24 aprile 1945
Atti del Governo, registro n. 3, foglio n. 124. — P. 114

DISPOSIZIONI E COMUNICATI DEL GOVERNO MILITARE ALLEATO

Io, Brigadiere Generale G. R. UPJOHN, Vice Presidente (Sezione Affari Civili) Commissione Alleata, con la presente ordino che il decreto contenuto nel supplemento ordinario della *Gazzetta Ufficiale* n. 49 del 24 aprile 1945 entri in vigore ed abbia piena forza ed effetto di legge nelle Province soggette al Governo Militare Alleato a partire dalla data in cui il Prefetto di ciascuna Provincia riceverà dalla Commissione Alleata una copia del presente numero della *Gazzetta Ufficiale*.

In data 24 aprile 1945

G. R. UPJOHN

BRIGADIERE GENERALE
Vice Presidente (Sezione Affari Civili)
Commissione Alleata

(569)

GIOLITTI GIUSEPPE, direttore

SANTI RAFFAELE, gerente

(1106005) Roma - Istituto Poligrafico dello Stato - G. C.

PREZZO L. 5—

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