

ACC

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JURISDICTION
TERRITORY
AUG. 1944

8 JURISDICTIONAL POSITION OF ITALIAN TROOPS IN FRENCH
TERRITORY
AUG. 1944

FILE CLOSED 14 August 1944

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Sub-Commission
APO 394

(2A)

ACC/4168/L.

RHW/pa.
14 Aug 44.

SUBJECT : Jurisdictional Position of Italian
Troops in French Territory.

TO : The Acting Chief Commissioner.

1. Reference your A/CC 014.13 dated 9 August 1944,
received in the Legal Sub-Commission to-day.

2. There appear to be two possible classes of cases in-
volved (a) offences by Italian military personnel against French
citizens military and civilian and (b) offences by French ci-
tizens military and civilian against Italian military personnel.

3. Taking up the first class, in the absence of occupa-
tion as in this case, difficulties have always arisen where
troops of one nation are on the soil of another. Ordinarily the
military tribunals of the nation whose soldiers are on foreign
soil should have the right to try them for offences committed
against citizens of the other nation. However, this seems ge-
nerally to have been the matter of agreement or statute, indicat-
ing that in the absence of such agreement or statute the local
tribunals may assume jurisdiction. There has been a contrary con-
tention at times, but I have never thought it well founded in
view of the fact that it has been thought necessary to make
agreements or to enact statutes to take care of the situation.
For instance in the last war the United States and France
entered into an agreement whereby our Courts Martial would have
exclusive jurisdiction in absence of waiver to try American mi-
litary personnel for offences against French nationals. I be-
lieve similar arrangements were made between Great Britain and
France. In this war Great Britain enacted a statute to give
effect to the same principle as to American military personnel
in the U.K. and likewise Australia enacted a statute to the
same end. As I recall it the Darlan agreement contained a pro-
vision that accomplished the same purpose in North Africa, just
as our reservations as to unoccupied territory in Italy provide.
Consequently in the absence of such agreement or statute the
French, consistent apparently with their previous policy, I

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believe have the right to try Italian soldier for offences against the French.

4 4. As to the second class of cases, the French Courts civil or military as the case may be would have the exclusive right in Corsica to try French nationals for offences against Italian military personnel.

5. To avoid the present difficulty there appear to be only two courses to follow :

(a) Have an agreement or understanding that for offences by Italian military personnel ~~(a)~~ Italian military tribunals shall have exclusive jurisdiction and for offences against Italian military personnel committed by French military personnel or civilians the French Courts shall have exclusive jurisdiction. A formal agreement may be considered objectionable on several grounds but certainly some understanding could be reached which would have the same practical effect if the high authorities in Corsica of both nations will abide by it in good faith.

(b) With drawal of all Italian Military personnel from Corsica or keeping them within their own military areas. These are tactical matters the practicability of which can be determined only by higher military authority.

6. I return herewith the translation which you transmitted. If you have an extra copy I would be glad to have it for possible future reference.

RICHARD H. WILMER, ?
Colonel, C.A.C.,
Acting Chief Legal Officer.

4168
ALLIED CONTROL COMMISSION
INTER OFFICE MEMO458
10 AUG 1944

From: Office of the Acting Chief Commissioner

SUBJECT: Jurisdictional Position of Italian
Troops in French Territory.

FILE No. A/CC 014.13

TO: Administrative Section
(For Legal Sub-Commission)

9 August 1944

1. Attached is copy of translation of letter 00296/3 from H.E. Bonomi dated 7 August 1944, requesting the Allied Control Commission to "approach the Allied High Command in order that the position of the Italian troops in French territory be clarified", etc.

2. Your comments and recommendations will be appreciated.

Dw
Stone.

Incl-
as in para 1 above.

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