

ACC

10000/142/1010

LEGAL S/C OF ACC,
(OCT., NOV. 1940); NO

10000/142/1010

LEGAL S/C OF ACC, FINANCING OF ITALIAN UTILITIES
(OCT., NOV. 1940); NOV., DEC. 1943

Translation of Protocollo 91535. Dated 19 Nov 40.

Declassified General, 6

Intend. di Fin

UFF. Distrib. G. G. G.

LAW 26 OCTOBER, 1940 - No. 1543.

Official Gazette of 19th November, 1940, No. 270 - Law for war damages - Application of this law is devolved to Intendenza di finanza and ufficio distrettuale delle imposte dirette.

1. Indemnities are granted only to persons and corporations of Italian citizenship or nationality.
2. Real or emergency damages only may be indemnified, indirect losses deriving from war such as the suspension of trades, standstill in business, abandonment of agriculture and cessation of professional activities will not be included.
3. Emergency damage may be indemnified entirely if it is caused by war preparation or by war itself, both if damage is due to the enemy or to the national armed forces.
4. It is compulsory that indemnities be re-invested in the real estate or industrial installations.
5. So as to avoid that the indemnity be misapplied from its purpose assignments are forbid.
6. No accumulation of indemnities, granted by the State or any other body is allowed.
7. No declarations may be accepted beyond the fixed time limits.
8. The determination of indemnities is final and there is no appeal.
9. Any one who has been damaged and has received advances of any kind is bound to reimburse the amount to the State.

Art. 1.

Compensation is limited to property and moveable goods damaged in the course of the war.

Art. 2.

Damages suffered by foreigners may be indemnified on the basis of treaties to be concluded between Italy and the countries to which belong the damaged people.

Art. 3.

No indemnities are granted to those who have been condemned according to Chapter I and II - 1st title of the II book, of Common Penal Law, or by articles 71-72-73-77 1st part, 78-79-80 of Military Penal Law and articles 71-72-73-74-78 (1st part), 79-80-81-82 Maritime Penal Law and Articles 352-353 of the text for the law of war approved by decree 8 July, 1938, No. 1415.

Art. 4.

If damaged properties belong to persons or bodies excluded from indemnities according to articles 3 and 4 an indemnity will be paid to the mortgage or other

or by war itself, both if damage is due to the enemy or to the national armed forces.

4. It is compulsory that indemnities be re-invested in the real estate or industrial installations.
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Art. 4.

If damaged properties belong to persons or bodies excluded from indemnities according to articles 3 and 4 an indemnity will be paid to the mortgages or other creditors, and the Registry of Mortgages will be enforced accordingly.

Art. 5.

The State has the faculty to indemnify damaged persons or bodies attributing things of the same kind of those lost or destroyed.

Art. 6.

The indemnity may not be over L. 500,000 if the damaged property concerned is represented by villas, castles, buildings destined to dwellings de luxe.

Art. 7.

The indemnities received are to be re-employed for the purpose of reconstructing repairing of real estates or industrial installations - Terms granted for such a employment is two year starting from the day in which the war ends or from the day which the damaged person had news of the settlement of the indemnity.

REPRESENTATIVE
ALLIED COMMERCE COMMISSION
Legal Subcommittee

CHL/CHL/

Ref: AM/14/300.

6 December 1943.

Acc/c/205

Dear Sir,

1. Thank you for your letter on the Electricity Company of Sicily. The Minister is going to provide the money for the Company and will decide later whether the provision is to be considered as an advance or compensation. We presented the matter to him in this light as we did not want to get ourselves involved in Compensation Legislation and we followed the broad principle that we would provide the money to the Minister if he would make the like provision to the Company and it was no concern of ours as to how or when (if at all) he would get the money back.

We mentioned the Compensation Legislation but as we anticipated he would not consider it because if the damage in the North of Italy is as extensive as it has been in the South there can be no question of anyone getting compensation!! (fever)

2. Thank you for the Memo on Italian Courts. We are making one or two small amendments and are going to discuss the matter with Mr. Col. Ross.

I enclose herewith files in case of Ross & Catalano for your action.

Please collect and send direct to CIO IV Army Group

Dear Dad,

2. Thank you for your letter on the Electricity Company of Sicily. The Minister is going to provide the money for the Company and will decide later whether the provision is to be considered as an advance or compensation. We presented the matter to him in this light as we did not want to get ourselves involved in Compensation Legislation and we followed the broad principle that we would provide the money to the Minister if he would make the like provision to the Company and it was no concern of ours as to how or when (if at all) he would get the money back.

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2. Thank you for the News on Italian Courts. We are making one on two small amendments and are going to discuss the matter with Lt. Col. Howe.

I enclose herewith films in case of Teco & Catalano for your action.

Please collect and send direct to HQ IV Army Group a set of the directives ^{prepared} ~~sent out to England~~ by all Sub-Commissions. *or, declassified*
to B.C. A.O. ^{under 4. H. 5} as working this per Col. Croston who is flying back.

G. B. URBAN

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
APO 512
LEGAL SUP-COMMISSION

2nd December, 1943.

SUBJECT:

TO : Colonel G. R. Upjohn.

Dear Gerald,

Colonel Crowdon who is leaving here tomorrow may possibly want your help in taking up with the Italian Government a matter of considerable importance. As he will give you the details I will only touch the high points. The General Electric Company here (Societa Siciliana di Elettrocita) is operating at a deficit and if some financing (1) of capital repairs and replacements and (2) of operating costs is not done, the results will be quite disastrous. The Military Forces will be without power unless they operate the plants necessary for military uses alone and the city ~~otherwise~~ will be without light and many employees of the Company as well as many people working in places where power is essential will be thrown out of employment with serious consequences.

We have discussed various means and methods and the one now under consideration seems by far the best.

The Italian Government owes the company under the provisions of the Law on Compensation for War Damages of 26.10.1940. No.1543, a considerable sum, probably not less than 200,000,000 lire. A brief translated synopsis of the law is attached. Thackrah has a book containing the law in the original so that he can examine it in detail. You will observe that in order to recover war damages a claimant must first submit his claim to the Intendente di Finanza (Art.13) and if the claim is over 200,000 lire it has to go to an official commission at Rome.

Inasmuch as ALTA cannot loan money to private corporations it is decided that the necessary advances for capital repairs and replacements will have to be by way of payment in advance by the Italian Government through ALTA of a part of the war damages. I understand that the company is filing with the proper local officials a tentative claim only, to be followed when possible by a detailed claim. Colonel Crowdon will bring a copy of the tentative claim with him.

If the Italian Government on this basis, as the equivalent of what is required by law, will authorize the prepayment of a portion of the total estimated war damage, ALTA will make such advance. Colonel Crowdon will explain the mechanics to be used in the application of funds and the safeguards to keep it in proper channels as far as possible. Incidentally the funds advanced will be used only for the repair or replacement of property damaged by war operations.

The main thing I want to make clear is that for the protection of ALTA we want the approval of the Italian Government as to this advance under the War damage schemes, the latter apparently being the one speedy means available.

As to operating funds, Colonel Crowdon will explain this situation.

Colonel Crowdon who is leaving here tomorrow may possibly want your help in taking up with the Italian Government a matter of considerable importance. As he will give you the details I will only touch the high points. The General Electric Company here (Societa Siciliana di Eletticit ) is operating at a deficit and if some financing (1) of capital repairs and replacements and (2) of operating costs is not done, the results will be quite disastrous. The Military Forces will be without power unless they operate the plants necessary for military uses alone and the city ~~otherwise~~ will be without light and many employees of the Company as well as many people working in places where power is essential will be thrown out of employment with serious consequences.

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Inasmuch as AMFA cannot loan money to private corporations it is decided that the necessary advances for capital repairs and replacements will have to be by way of payment in advance by the Italian Government through AMFA of a part of the war damages. I understand that the company is filing with the proper local officials a tentative claim only, to be followed when possible by a detailed claim. Colonel Crowdon will bring a copy of the tentative claim with him.

If the Italian Government on this basis, as the equivalent of what is required by law, will authorize the prepayment of a portion of the total estimated war damage, AMFA will make such advance. Colonel Crowdon will explain the mechanics to be used in the application of funds and the safeguards to keep it in proper channels as far as possible. Incidentally the funds advanced will be used only for the repair or replacement of property damaged by war operations.

The main thing I want to make clear is that for the protection of AMFA we want the approval of the Italian Government as to this advance under the War damage schemes, the latter apparently being the one speedy means available.

As to operating funds, Colonel Crowdon will explain this situation. Apparently the Company before the invasion received in materials or otherwise a subsidy from the Italian Government. It now needs the advance in cash. It is proposed that the Italian Government authorize such advances also through AMFA.

It may be that Colonel Crowdon will not need to call on you for help, but if he does, the general background above given may be of some help.

Here everything is moving along. I am getting up lists of officers and other ranks to go to the mainland etc. Also we manage to pick up a few new clients each hour.

Please note that this is a new
policy as far as I know in asking
the Italian Govt. to do any thing.
The matter of policy must be considered.

Very sincerely,

Dick

ALLIED MILITARY GOVERNMENT
SICILY REGION HEADQUARTERS

RFD/134

29 November 1943

Subject: Provision of Financing to
Public Utility Companies
under the Italian State War
Damage Compensation Act.

To : Brigadier Hamlyn, C.F.O.
Fin. Sub. Com., AMG HQ.

Through: BEAC

1. Various public-utility companies in Sicily are urgently in need of financing, both for current operations and for repairs and replacements necessary to increase output. I believe there is agreement that continued private operation by existing Italian personnel is desirable.

2. Income of these companies has been drastically reduced by war damages to their properties and to consumers' properties, and by military control and use of the companies' installations. Expenses of operation have increased due to wage increases and other causes.

3. It is agreed that direct loans by AMG are not desirable, nor would they furnish a proper solution to the problem. Loans by Italian banks are not feasible; as the various situations are not such as to justify the banks in making loans willingly.

4. The responsibility for remedial measures is clearly that of the Italian State, because of the public need for the services.

5. This responsibility is envisaged in Law NO. 1543 of 26 October 1940 Reincendio dei Beni di Guerra (War Damage Compensation Act). This law provides for the granting of funds by the Italian State for the restoration of war-damaged properties.

The essential provisions of the law are (briefly stated):

Art. 1--The Government grants compensation for loss, destruction or deterioration of fixed or movable properties consequent upon any action of war.

Art. 2-Any line of action of war as direct or indirect result of action of armed forces, friendly or enemy, coordinated in preparation or carrying out of war operations.

Art. 3-Only Italian-owned properties are included. (Foreign controlled companies may be considered on the basis of treaties to be made).

Art. 4-Excludes convicted persons.

Art. 5-Grants for damages are payable to mortgage holders in cases of foreign or convicted owners (art. 3 and 4)

Art. 6-Movable articles are to be valued at their price in "Common Commerce" at the time of damage, less the value of the residual part. The State has the right to make restoration of the items themselves.

Art. 7-Real property ^{is} will be valued at their price in "common commerce" as of one ^{or} month before declaration of war, less the residual part.

Art. 8-In the case of real property or industrial plants, compensation is conditional on re-employment of the funds in the restoration of the damaged or destroyed properties.

For public-services companies, the foregoing applies also to movable articles necessary for operation.

Failure to carry out the obligation to re-employ the funds as stated above deprives the company of the right of compensation and permits the State to request re-insurance. Such re-employment must be effected within two years from the end of the war or from the date the grant is made by the State.

Art. 9-The State paying offices (uffici liquidatori-see Art. 13) may order re-employment in form other than provided in Art. 8, if in the public interest.

They may also exempt the damaged party from the obligation to re-employ, when manifestly this is not useful or possible.

Art. 10-Mortgages or Liens which existed on the real property remain applicable to the reconstructed or repaired property.

Art.11 War damage grants cannot be transferred, unless with the consent of the "Uffici Liquidatori". Grant cannot be sequestered except for "alimentary credit".

If the real property is ^{LIENED} levied or mortgaged, the compensation, if made payable for purposes other than re-employment in the property under Art. 9, is pledged in favor of the holders of the lien or the mortgage. The State, in such cases, will give such creditors or mortgage holders 60 days notice by publication in the "foglie degli annunzi" (law notice gazette) of the Province to interpose their demands to the Intendente di Finanza; after the termination of such period without opposition by the creditors the State is freed from the obligation in favor of such creditors.

Art. 12 The compensation granted is not in addition to damages due from others on the same property (such damage compensation from others is to be deducted from the State grant).

Art.13 Claims for damages must be presented within 5 months from the end of the war to the Intendente di Finanza of the Province.

Art 14 If the owner does not make claim, renters, creditors, etc. may.

Art.15 The Intendente di Finanza having received the Claims, and having had them reviewed where necessary by the Ufficio Tecnico Erariale, or in cases of special appraisals by appropriate State Offices, proceed to the liquidation of the indemnity which they consider due. For compensation up to 200,000 lire the liquidation is subject to the approval of the regional commission, etc. (doesn't apply to our uses)

Art.16 If the commission agrees the grant becomes definitive. If not the Commission may determine the amount.

Art.17 For grants over 200,000 lire, approval must be obtained from a central commission in Rome, in the Ministry of Finance, composed of three judges of the courts appointed by the Ministry of Justice, four representatives of the Ministry of Finance, Two members of the Fascist Confederation of Industrial Employers, etc.

Art. 18 (Not important in our case)

Art. 19 " " " " "

Art. 20 " " " " "

Art. 21 " " " " "

Art. 22 Grants for purposes other than re-employment in the property may be paid immediately upon approval, subject to the conditions of Art. 11.

Grants for re-investment in the property will be made upon request up to the 50% of the amount agreed upon. The remaining 50% will be paid after the total re-employment is ascertained.

Art. 23 Any grants by any State agency to the damaged concern will be deducted from the amount granted.

Art. 24 The damaged concern may enter protest to the Ministry of Finance within 30 days of notice of grant, if dissatisfied with the grant.

Art. 25- 28 (Not important to us)

Art. 29 The Government may issue regulations for the carrying out of the present law.

For the Regional Civil Affairs Officer

R.B. MENAPACE
Lt. Colonel,
R.C.F.O.

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Art. 10.

The rights of creditors on reconstructed or repaired real estate, remain the same as before the damage.

Art. 11.

No cessation of indemnities may be done - the indemnity may not be pawned or seized except for alimentary purposes.

Art. 13.

Applications for war damages are to be produced, within six months from the day in which war ends, to the Intendenza di Finanza if the damage amounts to over L. 20,000, if it is less to Ufficio delle Imposte dirette.

Art. 14.

No surrogation is admitted, if not exercised within the peremptory term of two months from maturity of that fixed to the damaged person for the production of application for indemnity.

Art. 15.

Up to L. 10,000 the liquidation of indemnities is made by Intendente and Procuratori delle Imposte dirette - Instead if the indemnity asked is over L. 10,000 the liquidation is made by a Comptamental Commission.

Art. 17.

If the indemnity asked for is over L. 200,000 the decision and liquidation is devolved to a Central Commission in Rome.

Art. 19.

The settlement made under the above Articles is final.

Art. 23.

From the sums to be paid will be deducted the advances of any kind made to the damaged person or body by the State.

Art. 24.

The settlement of which mention is made in the preceding articles may be appealed by the damaged person or body, within 30 days from notification, before the Minister of Finance whose decision will be a definitive provision.

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