ACC

10000/142/1015

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NOV. 1943 – JAN

10000/142/1015

LEGAL S/C OF THE ACC, AMG REGION II
NOV. 1943 – JAN. 1944

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission

NCT/gmf

9 January 1944.

In reply
refer to: 600.1/304.

121/2

SUBJECT: Royal Decree of 23rd March 1939.

TO : Regional Chief Legal Officer, Region 2.

1. Further to this office letter ref ACC/1/30, dated 23 Dec. 1943, the officials of the Italian Ministry of Justice point out that as all categories of government employees are affected by the Decree, it will be necessary to refer the matter to all departments concerned before making any modification to obviate possible injustice. The outcome of these consultations is now awaited.

2. Whilst it is felt that any permanent adjustment is entirely a matter for legislative mechanism to be devised by the Italian Govt, there would seem to be no reason why functionaries temporarily under AMG should not have questions affecting their salaries and appointments brought into line pending the pouring of territory from AMG to Italian administration.

Major
C. R. WRIGHT, Colonel,
Chief Legal Officer, ACC.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission

30 December 1943.

In reply
refer to: ACC/L/101.

SUBJECT: Italian Deserters.

TO : Chief Legal Officers, Regions 1 & 2.

Members of the Italian Armed Forces who deserted between 10 July and 8 September 1943, inclusive, shall not be punished for desertion except those who deserted to the German or other hostile army.

However, the foregoing does not preclude trial and punishment by an Italian Military Tribunal of those who so deserted between the dates above mentioned, for their failure to return to the Italian Armed Forces after 6 October 1943, provided they were given due and proper notice to return by that date. In such cases the deserters may be tried and punished for failure to return and not for the original desertion.

The Italian Commanders in your Region should be advised accordingly.

Colonel
Chief Legal Officer, ACC

Copy to AMG HQ 15th Army Gp.

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AMG HQ

Region Two

21 Dec 43

Ref: 2201/14/39

Subject: Italian Military Courts

To: Chief Legal Officer
Legal Sub-Commission
ACC

1. The SLO for Catanzaro has asked me several questions concerning the Rules recently promulgated for the supervision of the work of Italian Military Courts.

2. The Procurators of the Military Court at Catanzaro has not yet received any orders from his commanding officer concerning the rules or the procedure to be followed. Because the Rules were marked SECRET the SLO has hesitated to communicate their contents without receiving exploit authorization to do so. Would it be advisable to have the Rules distributed to the Italian General Staff, and by them passed down to the appropriate units?

3. In paragraph (g) does the "record" referred to consist merely of the verbale di dibattimento, or should all the papers by forwarded?

4. Has any officer as yet been appointed to exercise the powers of the Military Governor to examine and review the sentences of the Military Tribunals?

5. The SLO states that he had understood that the correct date of the Military Penal Code of War was 1 Oct 41 and not 20 Feb 41.

Mark D.W. Howe

Mark DeW. Howe, Major AUS
RCLO, Region 2

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ALLIED MILITARY GOVERNMENT
Region Two

Regional Order Number

By virtue of the powers vested in me as Regional Civil Affairs Officer of Region Two, I, G.H. McAffrey, Lieutenant-Colonel, Infantry, hereby order as follows:

Section One: The Presidents of each Tribunale in Calabria, Lucania, and the Province of Salerno is empowered to appoint curators to care for movable and immovable properties which have been left unowned for by their owners and which do not fall within the control of the Controller of Property named by the Allied Military Governor.

Section Two: Petitions for the appointment of a curator to take charge of unowned for property will be filed with the Senior Notary of the town or district in which the said property is situated. The petition shall set forth in detail the nature of the petitioner's interest in the matter, the reasons why the appointment of a curator is requested, and a full description of the property in question.

Section Three: The Notary with whom the petition is filed shall consider the application and shall forward it with his recommendations to the Provincial Property Controller or Provincial Legal Officer of the Allied Military Government. If the petition is approved by such officer it will be transmitted to the competent Presidente of the Tribunale who will thereupon appoint a curator chosen from the list of Notaries exercising their functions in the district in which the property is located, with the power and duty of taking control of the property and preserving and protecting it.

Section Four: It shall be specified in the appointment of a curator hereunder that for his services he will be entitled to the usual honoraria under Italian law and that he will be responsible, either before the appropriate Italian courts or before an Allied Military Court for the proper execution of his duties.

G. H. McAffrey, Lt. Col., Inf.,
R.C.A.O., Region 2

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AMG (4086)

Headquarters

Region 2

(2 copy of this filed under Italian Prob.)

Ref: 2201/14/36 19 Dec 43

Subject: Trial Of Italian Deserters

To: Chief Legal Officer
Legal Sub-Commission
ACC

I have received your instructions as to the procedure and policy to be followed in dealing with the above mentioned problem. Your views have been communicated to the C.O.C. No. 2 District, who is the officer commanding XXXI Army Corps, with the RCAC's request that appropriate orders be issued to the Italian troops in Region 2.

Mark DeW. Howe

Mark DeW. Howe, Major, AUS,
RCLO, Region 2

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HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission.

ES/gmf

113/3

21 December 1943.

In reply
refer to: AOC/L/304.

SUBJECT: Transmittal of Documents.

TO : Chief Legal Officer, HQ AMG, Region 2.

1. Letter of 7 Nov. 1943 on appointments of Honorary Vice-Pretori.

2. Letter of 16 Dec. 1943 on Reports on Penal Proceedings for Violation of Food Rationing Laws.(2 copies).

3. Letter of 10 Dec. 1943 on Arbitrary Absenteeism from service of state employees (2 copies).

4. Letter of 17 Dec. 1943 on Reform of Corte d'Assise.

5. Letter of 16 Dec. 1943 concerning the application for dismissal of the agente di custodia Elezions Liberato.

6. Letter of 13 Dec. 1943 concerning the renewal of the employment contract of the head jailor Pugnetti Camillo, with enclosure.

7. Letters of 14 Dec. 1943 on subscription to the Gazzetta Ufficiale. (6 copies).

In reference to the letter mentioned above under (1) I shall make it clear to the Undersecretary that no appointments can be made by him before the restoration of territory. Please inform the officials concerned of this restriction.

In so far as letters under (2) and (3) are concerned please

In reply
refer to: AGO/4/304.

SUBJECT: Transmittal of Documents.

TO : Chief Legal Officer, HQ AMG, Region 2.

1. Letter of 7 Nov. 1943 on appointments of Honorary Vice-Pretori.

2. Letter of 16 Dec. 1943 on Reports on Penal Proceedings for Violation of Food Rationing Laws.(2 copies).

3. Letter of 10 Dec. 1943 on Arbitrary Absenteeism from service of state employees (2 copies).

4. Letter of 17 Dec. 1943 on Reform of Corte d'Assise.

5. Letter of 16 Dec. 1943 concerning the application for dismissal of the agents di custodia Ellenione Liberato.

6. Letter of 13 Dec. 1943 concerning the renewal of the employment contract of the head jailor Pugnetti Camillo, with enclosure.

7. Letters of 14 Dec. 1943 on subscription to the Gazzetta Ufficale. (5 copies).

In reference to the letter mentioned above under (1) I shall make it clear to the Undersecretary that no appointments can be made by him before the restoration of territory. Please inform the officials concerned of this restriction.

In so far as letters under (2) and (3) are concerned please explain to the recipients that instructions contained therein have no executory force in territory under AMG but are communicated only for information and in preparation of the pending transfer.

Changes contemplated in letters under (5) and (6) are of course subject to your approval.

Reference letter mentioned above under (7) it has been agreed with the Ministry that copies of the Gazzetta Ufficiale special series may be distributed to officials in the area about to be transferred to the Italian Administration, in order to keep these officials informed on the legislative provisions enacted in the four Provinces under Italian control. It is of course understood that the operation of the enactments contained in the Gazzetta is limited to these Provinces.

J. S. [illegible], Colonel
Chief Legal Officer, AMG.

trol. It is of course understood that the operation of the ordinances contained in the Gazette is limited to these Provinces.

G. R. [illegible], Colonel
Chief Legal Officer, ACO.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission

RS/gmf

13 December 1943.

In reply
refer to: ACC/L/504.

111A

SUBJECT: Chiappa Lorenzo.

TO : Regional Chief Legal Officer,
HQ AMG Region 2.

I have arranged at today's meeting with the Under Secretary of Justice that he will order Judge Megna, by wire, to assume instantly his seat at the Court of Appeal at Catanzaro.

G.R. UPJOHN, Colonel
Chief Legal Officer, ACC.

13 December 1943.

In reply
refer to: ACS/1/304.

HHA

SUBJECT: Chieppa Lorenzo.

TO : Regional Chief Legal Officer,
Hq ASC Region 2.

I have arranged at today's meeting with the Under Secretary of Justice that he will order Judge Negha, by wire, to assume instantly his seat at the Court of Appeal at Ortelmaro.

G.H. BRUGH, Colonel
Chief Legal Officer, ASC.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission

RS/gmf

13 December 1943.

111B

In Reply
Refer To: AOC/L/304.

SUBJECT: Lists of Judicial Personnel.

TO : Regional Chief Legal Officer,
AMG HQ Region 2.

1. Your letter of 10 December 1943 with enclosed lists of judicial officials of Potenza has been received here and the lists have been referred to the Ministry of Justice.

2. It is noted that similar lists from the remaining Provinces of your Region will be supplied at your earliest convenience.

C. R. URQUHART, Colonel
Chief Legal Officer, ACC.

111 P

In Reply
Refer To: ADC/1/304

SUBJECT: Lists of Judicial Personnel.

TO : Regional Chief Legal Officer,
ANC HQ Region 2.

1. Your letter of 10 December 1943 with enclosed lists of judicial officials of Potenza has been received here and the lists have been referred to the Ministry of Justice.

2. It is noted that similar lists from the remaining Provinces of your Region will be supplied at your earliest convenience.

G. R. URQUHART, Colonel
Chief Legal Officer, ACC.

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HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission

WS/gsP

13 December 1943.

In reply
refer to: ACC/1/304.

111 A

SUBJECT: Judicial Re-appointments - Potenza Province.

TO : Regional Chief Legal Officer,
II, AMG Region 2.

1. In accordance with your letter of 10 December 1943 I have communicated the names of Vice Pretori Dozzi and Lacconelli to the Under Secretary of Justice who assured me that these officials will not be reappointed when their terms expire.

2. It would be very useful indeed if you would compile a complete list of objectionable judicial officials whose terms are about to expire so that similar steps could be taken in regard to them.

G. R. WATKIN, Colonel
Chief Legal Officer, ACC.

19 December 1943.

In reply
refer to: ADC/1/304.

SUBJECT: Judicial Re-appointments - Veterans Province.

TO : Regional Chief Legal Officer,
No. ADC Region 2.

1. In accordance with your letter of 10 December 1943 I have communicated the names of Vice Prefect Pomi and Lamanelli to the Under Secretary of Justice who assured me that these officials will not be reappointed when their terms expire.

2. It would be very useful indeed if you would compile a complete list of objectionable judicial officials whose terms are about to expire so that similar steps could be taken in regard to them.

G. R. URQUHART, Colonel
Chief Legal Officer, ADC.

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HEAD QUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission

204

In reply refer to: AGN/1/32.

26 December 1943.

SUBJECT: Transmittal of Documents.

TO : Chief Legal Officer, Hq AMG Region 2.

43

Enclosed the following documents from the Ministry of Justice for transmittal to the respective Italian authorities:

1. Letter of 22 Dec. 1943 concerning the transfer of Consigliere of the Court of Appeal Gentile to the Section of the Court of Appeal at Lecce.

2. Letter of 18 Dec. 1943 disapproving the application for transfer of the agents Lo [illegible] from Lagonegro to Salerno.

3. Letter of 18 Dec. 1943 concerning [illegible], sottocapo of the Judicial prisons, Lagonegro.

4. Letter of 15 Dec. 1943 concerning the renewal of appointment of [illegible], head-guard of the Judicial prison of Matera.

5. Seven petitions for pardon forwarded to the Procuratore del Re of Matera for investigation and concerning:

[illegible] - of Ditondo
[illegible] - " "
[illegible] - " "
[illegible] - " "
[illegible] - "

[illegible] - of [illegible]
[illegible] - " "

6. It is understood that the changes intended in letters mentioned above under 1 to 4 are subject to your approval.

7. The petitioners listed above under 5 are domiciled in free Italy and therefore acted properly in addressing their petitions to the King.

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SUBJECT: Transmittal of Documents.

TO : Chief Legal Officer, HQ AMG Region 2.

Enclosed the following documents from the Ministry of Justice for transmittal to the respective Italian authorities:

1. Letter of 22 Dec. 1943 concerning the transfer of Consigliere of the Court of Appeal Gentile to the Section of the Court of Appeal at Lecce.

2. Letter of 18 Dec. 1943 disapproving the application for transfer of the agents Io PRETE from Lagonegro to Salerno.

3. Letter of 18 Dec. 1943 concerning GIGLIANO GRAVIO, sottocapo of the judicial prisons, Lagonegro.

4. Letter of 13 Dec. 1943 concerning the renewal of appointment of CONTI GENNARO, head-guard of the Judicial prison of Matera.

5. Seven petitions for pardon forwarded to the Procuratore del Re of Matera for investigation and concerning:

GIORGIO ANNA - of Ditonto
CAIANI FARMINAS - " "
CARELLI FRANCESCO - " "
MARTORANO MARIA - " "
UGGIANO GIACOMINO - " "

TRUITO EMMA - of ALTAMURA
LIVRIERI DOMENICO - " "

6. It is understood that the changes intended in letters mentioned above under 1 to 4 are subject to your approval.

7. The petitioners listed above under 5 are domiciled in/from Italy and therefore noted properly in addressing their petitions to the King.

for: Capt

MILFORD H. GUMER, Lt. Col. GSC
Deputy Chief Legal Officer.

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HEADQUARTERS
ALLIED OVERSEAS COMMISSION
Legal Subcommission

CMG/pm

14 December 1943.

In reply
refer to: AOC/1/30

SUBJECT: Discipline of Italian Deserters.

TO : Regional Chief Legal Officer, Region 2 (thru HLAO).

I have considered your letter GCOI/31/39 dated 29 Nov. 43 enclosing copy of letter from Lt. Col. Todd to G.O.C. 13 Corps Italian Army, and have the following observations to make.

1. The Armistice Terms did not lay any form of Italian Court Martial Procedure but of course such Courts Martial could, in occupied territory, only take place with the consent of the Allied Military Government. In that union for the Regulation of Italian Courts Martial have not been circulated to you.

2. I have not seen the contents of the leaflets dropped nor heard the relevant radio appeals but subject to any particular statement that may have been made as to the effect of desertion the legal position is that deserters, in response to leaflets, etc., remain soldiers of the Italian Crown and ought not to be treated as of civilian status but as prisoners of war - possibly on parole.

In view of the status of co-belligerency granted to the Italians it is essential that all such deserters should be treated as members of the Italian Army and compellable to rejoin by the Italians.

3. It is of course entirely agreed that all Italian soldiers

Refer to: 322/5/304

SUBJECT: Detention of Italian Deserters.

TO : Regional Chief Legal Officer, Region 2 (thru RCMO).

I have considered your letter 2871/1/20 dated 29 Nov. 43 enclosing copy of letter from Lt. Col. Dodd to G.O.C. XI Corps Italian Army, and have the following observations to make.

1. The Armistice Terms did not ban any form of Italian Court Martial Procedure but of course such Courts Martial could, in occupied territory, only take place with the consent of the Allied Military Government. In that Index for the Regulation of Italian Courts Martial have not been circulated to you.

2. I have not seen the contents of the leaflets dropped nor heard the relevant radio appeals but subject to any particular statement that may have been made as to the effect or desertion the legal position is that deserters, in response to leaflets, etc., remain soldiers of the Italian Crown and ought not to be treated as of civilian status but as prisoners of war - possibly on parole.

In view of the status of co-belligerency granted to the Italians it is essential that all such deserters should be treated as members of the Italian Army and compellable to rejoin by the Italians.

3. It is of course entirely agreed that all Italian soldiers who deserted in response to our appeals must not be tried in respect of such desertion so that their position in effect is that, though compellable to rejoin, they cannot be punished for their desertion. In my view, the proper course is for the appropriate A.L.O. officer to give an order to G.O.C. XI Army Corps and to any other military units within

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your Region under the Rules for the Establishment of Italian Military Tribunals withholding all cases of desertion in response to Allied radio and leaflet appeals from the competence of Italian Military Tribunals. See Rule (d).

If you have copies of any leaflets which were distributed I should like to see one.

I wish to make it plain that the defence mentioned in para 3 is only available to those who deserted in response to our appeals which were made, of course, before and at the date of the Armistice. It should not be used as a cover for subsequent desertors in Allied occupied territory.

G. R. [illegible], Colonel
Chief Legal Officer, MOC.

like to see one.

I wish to make it plain that the defence mentioned in para 3 is only available to those who deserted in response to our appeals which were made, of course, before and at the date of the Armistice. It should not be used as a cover for subsequent deserters in Allied occupied territory.

G. R. [illegible], Colonel
Chief Legal Officer, AGC.

(95)

MOST SECRET

COPY

Subject: Disciplinary Measures for Italian Deserters.

To : General Officer Commanding 31 Corps, Italian Army.
(copies for inf. to HQAO Region 2; L.O. BMM)

20 Nov. 43.

1. I am informed that instructions have been issued to units under your command to institute courts martial to try cases of desertion prior to 8 Sep 43. I take the view that these deserters acted on the instructions issued to them by the Allied authorities by radio, leaflets and other means, and are consequently entitled to the protection of the Allied Military Government in the territories under its jurisdiction. It is moreover, my view, though this is a matter for ruling by the Legal Officers of the Administration, that soldiers who deserted at the invitation of the Allies have acquired, as far as we are concerned, civilian status, and consequently are excluded from your jurisdiction. I must therefore request you to cancel this instruction forthwith.

2. I am further informed that instructions have been issued to take severe disciplinary measures against men who deserted between the 8 Sep 43 and the 6 Oct 43, the date of the publication of the military proclamation of 25 Sep 43. These disciplinary measures are presumably in lieu of the court martial procedure which is barred under the armistice. Exactly the same considerations as are mentioned in paragraph 1 above, apply to these cases. While I cannot order you to cancel instructions of a disciplinary nature to units under your command, I am bound to say that I regard them as an infraction of the spirit of the armistice provision, and, if I am supported in my view by the Legal Officers of A.M.G., I shall afford them protection by claiming civilian status on their behalf. In the meantime I would suggest that these disciplinary instructions be modified.

(sgd) P. Rodd. Lt. Col.

Senior Civil Affairs Officer, Calabria.

1. I am informed that instructions have been issued to units under your command to institute courts martial to try cases of desertion prior to 8 Sep 43. I take the view that these deserters acted on the instructions issued to them by the Allied authorities by radio, leaflets and other means, and are consequently entitled to the protection of the Allied Military Government in the territories under its jurisdiction. It is moreover, my view, though this is a matter for ruling by the Legal Officers of the Administration, that soldiers who deserted at the invitation of the Allies have acquired, as far as we are concerned, civilian status, and consequently are excluded from your jurisdiction. I must therefore request you to cancel this instruction forthwith.

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(sgd) P. Rodd. Lt. Col.

Senior Civil Affairs Officer, Calabria.

Subject: Proclamations, Region 2

1 Dec. 43
A.G. HQ.,
Region 2
Ref: 2201/13/4

To: Legal Officer
ACC
Brindisi

1. Proclamation 5, together with General Orders 1 and 2, has been posted in Reggio, Cosenza, and Catanzaro Provinces. Regional Order No. 1 was also published in those places. Regional Order No. 2 was not posted in those three Provinces.

2. In Catanzaro and Potenza Provinces, where Proclamation 5 and the 1st and 2nd General Orders were never posted, Regional Order No. 2, not Regional Order No. 1, was posted.

Mark DeW. Howe

Mark DeW. Howe, Major, AUS,
RCLO, Region 2

HEADQUARTERS
ALLIED CONTROL COMMISSION
Legal Subcommission

101

5 December 1945.

In reply
refer to: AGO/LJOh.

SUBJECT: Italian Military Courts.

TO : Chief Legal Officer, Region II.

1. It is desired to obtain information regarding the sending of Italian Military Courts, AS-AW, in your Region particularly as to areas of Tribunal set up and place of administration - the classes of cases being dealt with, and any other points you deem of sufficient interest to include in your report.

2. We have tried to get you on the telephone via Bateman but the Italian exchange declare that there is no telephone line in operation to that town.

[illegible], Major
for Chief Legal Officer, ACC.

In reply
refer to: 200/1/301.

SUBJECT: Italian Military Courts.

TO : Chief Legal Officer, Region II.

1. It is desired to obtain information regarding the working of Italian Military Courts, if any, in your Region particularly as to types of Tribunal and upon places at which sitting - also classes of cases being dealt with, and any other points you deem of sufficient interest to include in your report.

2. We have tried to get you on the telephone via Potenza but the Italian exchange declare that there is no telephone line in operation to that town.

R. TWEEDIE, Major
for Chief of Legal Officer, PBS.

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