

ACC

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AMG
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10000/143/711

AMG- ARRESTS IN ITALIAN GOV'T TERRITORY
MAR. 1945

TO : Public Safety Sub-Commission.

1. The only right of arrest possessed by Allied personnel in Italian Government territory is that conferred by RDL No. 112 of 12 April 1944. For the purpose of such procedure, the arrest must be performed personally by the Allied personnel concerned. They have no right to order Italian police, or other Italian personnel, to perform the arrest on their behalf. An AMG warrant of arrest does not run in Italian Government territory.

2. RDL No. 112 only covers the following offences: "Acts hostile to the Allied Forces; offences against the property of the Allied Forces or its members or of agents of the United Nations; seditious manifestations against Allied Forces; acts prejudicial to the war effort or in aid of the enemy".

3. The decree refers to such offences when committed in Italian Government territory, but upon its true construction it extends also to such offences also when committed in AMG territory. Nevertheless if a person who has committed such offences is arrested by the Allies in Italian Government territory, he can only be tried in Italian Government territory and under Italian law. There is no right to try him under the AMG Proclamations. Still less to "extradite" or kidnap him.

4. Save as aforesaid the Allies have no right of arrest in Italian Government territory and they have no right whatever to order the Italians to make an arrest on their behalf. Of course if the acts complained of in AMG territory amount to an offence against Italian law the Allies can denounce the offender to the Italian authorities and initiate Italian criminal proceedings against him.

5. These rights depend upon the terms of restoration of territory. Whether or not the Italian Government would have agreed in Feb 44 to an "Extradition" procedure of the type envisaged if they had been asked to do so is a matter of conjecture. They were not asked to do so and there is now a lacuna in the position. If we suggested at any future date an increase in our rights I have no doubt that they would object, and I think with justice, particularly in view of the New Deal. Moreover they would say that they had always cooperated in the past and that the need for the change was not apparent.

6. The only solution is to continue to treat the problem as a matter for cooperation. I think the procedure to be adopted in such cases is one solely for your decision. I would suggest, however, that the normal approach be made through the Questura in the first instance. If cooperation is refused then the matter would presumably be dealt with through this HQ by contact with the Italian Government.

LEGAL SUB-COMMISSION

22 March 1945.

WLB/pe.

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

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LEGAL SUB-COMMISSION
22 March 1945.
WEB/ya.

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

Minute -1-

To: Legal S/C.

Re folio 1A. May we have an opinion on this, please. I have a recollection that this question was answered last year when he was at Salerno.

19 Mar. 45

Thompson
Col. D.F.S.

HEADQUARTERS ALLIED COMMISSION
Public Safety Sub-Commission
APO 394

Tel : 502

26 March 1945

AC/14073/6/PS

SUBJECT : Power of arrest

TO : Regional Commissioner, Venezia Region
(Attn: R.P.S.O.)

The attached is forwarded for your information
and distribution to all Public Safety Officers.

JOHN W. CHAPMAN
Colonel, J.A.G.D.
Director Public Safety
Sub-Commission.

LJT/wg.

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OFFICE OF THE LAISON OFFICER
AAAC/AC

LHR/41/PS

14673/6
New file
March 16th, 1945SUBJECT: A.M.G. arrests in A.C. territoryTO: Headquarters, Allied Commission - Public Safety
Sub-Commission

1) Three cases have recently come to notice in which it has been desired to arrest persons alleged to have committed offences against proclamations in A.M.G. territory and who have escaped to or are resident in Italian Government territory.

2) So far as is known there has been no directive covering this matter and it is thought desirable that some guidance should be available for action in future cases. It is not considered that an A.M.G. warrant is sufficient warrant to arrest in Italian Government territory.

3) Up till now local Police have been co-operative when requested to arrest or to render assistance with regard to the apprehension of such persons but it is not felt that the legal basis of such co-operation, and any arrests made, is very sound.

4) Possibly the correct course of action would be for A.M.G. Officers desiring such arrests to communicate the facts to the Questore of the district where the offence arises and ask him to issue an order for the arrest of the offender. If he agrees the order could then be passed to the Questore of the district where the offender is thought to be and if an arrest is made, the arrested person could be passed through Questore channels to the A.M.G. authority requesting the arrest.

5) It is realised, however, that this is, at best, an expedient and it is desirable that a definite legal procedure should be laid down for such cases.

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6) Furthermore it will be appreciated that this procedure rests on the degree of co-operation of the Questore in A.M.G. territory and the Police in Italian Government territory. .

7) An alternative course would be for the Provincial Public Safety Officer concerned to report the facts of the case to Allied Commission who in turn would communicate with the Ministry concerned and request that an order be given to the Italian Police to effect the necessary arrest. This process it is thought would be too slow to be practical.

8) It is likely that these cases will increase as more and more A.M.G. territory is turned over to the Italian Government and it is suggested that the matter be considered, and if thought necessary, referred to the Legal Sub-Commission in order that a regular and uniform legal procedure can be established in these cases.

H. Green. Major.

F.G. GREEN, Major
Liaison Officer - R.A.A.C.

TO	
DIRECTOR	<i>JW 23/9</i>
DEPUTY DIRECTOR	
CHIEF OFFICER	
ADJUTANT	<i>CHW 23/9</i>
LIC. & REG.	
PRISONS	
ADM. OFFICER	
SECURITY	
CHIEF CLERK	

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