

ACC 10000/143/2666 266

WAR CRIME POLICY

NOV. 1943. NOV. 1946

ON HIS MAJESTY'S SERVICE.
FASTEN Envelope by gumming this Label across Flap.
OPEN by cutting Label instead of tearing Envelope.

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|----|---|---|
| No | 1 | APHQ Circular - War Criminals |
| 2 | | AFHQ Circular No 11 - Investigations of War Criminals |
| 3 | | AFHQ - War Criminals |
| 4 | | AFHQ - War Criminals Circular No 1 |
| 5 | | Italians Listed as War Criminals |
| 6 | | War Criminals |
| 7 | | Italians Listed as War Criminals |
| 8 | | Italians Listed as War Criminals |
| 9 | | Regulations for the Trials of War Criminals |
| 10 | | Execution of War Criminals |
| 11 | | " " |
| 12 | | War Criminals, Execution of |

COPY

RESTRICTED

ALLIED FORCE HEADQUARTERS
APO 51225/11
698
266

ADMINISTRATIVE MEMORANDUM)

NUMBER

26)

12 November 1946

STAFF PROCEDURE RELATIVE TO WAR CRIMES AND WAR CRIMINALS

1. Hereafter the Theater Judge Advocate, MTOUSA, is charged with the functions of coordination within Allied Force Headquarters all staff work dealing with War Crimes and War Criminals. All matters dealing with War Crimes and War Criminals will be referred to the Theater Judge Advocate MTOUSA for appropriate disposition.

2. Among the functions to be performed under this directive, the Theater Judge Advocate will:

a. Prepare all communications to higher authorities or other Theaters on matters relating to War Crimes and War Criminals other than of a routine nature, for signature and dispatch by the Adjutant General, AFHQ, after consultation with other interested Staff Branches and headquarters.

b. Prepare all directives to GHQ, CMT and MTOUSA relative to War Crimes and War Criminals in the same manner as prescribed in paragraph 2a hereof.

c. Prepare and issue directives to Allied Commission relative to War Crimes and War Criminals with a copy of such directive to G-5, AFHQ.

3. Direct correspondence on matters of detail as may be appropriate in the performance of the functions herein prescribed, between the Theater Judge Advocate, MTOUSA and branches of MTOUSA, GHQ, CMT or Allied Commission, is authorized.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

sgd. RALPH C. TILLEY
Colonel, AGD
Adjutant GeneralDISTRIBUTION:
"G"

Information Copies, 2 Each:

III District

Flag Officer, Liaison-Italy(FOLI)

HQ PBS

AF Labour & Wages Committee(THRU RAAG)

HQ RAAG

HQ Caserta Enclave

HQ Command MTOUSA

AAB Giampino

Air HQ RAF Italy

1 Armored Division

1st AGRA

86th Area

HQ Padua Garrison

"Q" GHQ

AGRS/MT3

86th Inf. Div.

G-1 MTO

G-3 MTO

G-4 MTO

G-5 MTO

RESTRICTEDCopy to: Security Branch
Atty. Hy.
Copy Ellis.

36

copy

C 65690
OCT 191445A

N/7304
OCT. 201415

ROUTINE

AFHQ G-5
ALCOM, INFO: GHQ CMF

UNCLASSIFIED:

Reference should be to Fan 696. Ref our FX 72714. Repeat 696 non 695.

AC DIST.

ACTION - CA SECTION
EX. COMM 2
INFOR- CHIEF COMMISSIONER

POLAD A

POLAD B

FLOAT

FILE

*Public Lptg
(Security J2)*

SEARCHED	INDEXED
SERIALIZED	FILED
OCT 22 1964	
FBI - ALBANY	

ALLIED [REDACTED] COMMISSION
INTER-OFFICE MEMORANDUM

SUBJECT: *German War Criminals
wanted by France*
TO : *Public Safety &
(Security Div.)*

FILE No. _____

19 Oct. 1946

*Ref. French request of Public Safety for the
arrest of three German war criminals and signals
FX 72714 of Oct. 17th - FX 72746 of Oct. 18th, 1946.*

*Will you please submit a letter for the
Ex. Comm's attention addressed to the French*

Representative containing the following paragraph:

*"I have been instructed to inform you, as well
as any Governmental Representative of the United
Nations in Italy that, since the Allied Military Government*

34

866

has been abolished throughout the whole of Italy
with the exception of Venezia Giulia and the
Province of Udine, request for delivery of Italians
who are alleged war criminals must be taken
up directly with the Italian Government by the
Nation requesting the alleged criminals.

For the Executive Commissioner:
Trupia
Capt.

19/10/46

28 E. Endomus

FX 72714
OCT —

H/7242
OCT 171530

AFHQ SIGNED SACRED CITE FHGEG
ALCOM ROME

INFO: GHQ CME



SECRET

SECRET

The following is text of CCS signed NAF 695 of 9 October.

"Reference Alcom letter 6517/EC of 13 April 1946 to GHQ CME. Your request for Italians, including those mentioned in NAF 1165 who are wanted as War criminals by any of the United Nations will be handled as follows since Allied Military Government has been abolished throughout the whole of Italy with the exception of Venezia Giulia and the province of Udine. The request for the delivery of Italians who are alleged War Criminals will be taken up directly with the Italian Government by the Nation requesting the alleged criminals."

2. Ruling will be applied to requests already made which have not yet been complied with, Governmental representatives who have made such requests will be so informed forthwith.
3. Governmental Representatives of United Nations other than British and US will be informed of the above ruling as and when they submit requests to you to arrange for alleged War Criminals to be handed over.
4. In event of a governmental representative questioning validity of above ruling he should be advised that matter is one to be raised through Diplomatic channels.
5. The ruling is considered to Debar AFHQ or Alcom from acting as a medium for communication between Yugoslav Governmental Representative and Italian Government on matters connected with surrender of alleged Italian War Criminals. Should he raise question Yugoslav representative should be informed accordingly.

19/10
254

33

FX 72714

PAGE TWO

SECRET

SECRET

AC DIST

C. A. Sec
Action: Executive Commissioner (2)

Info: Chief Commissioner

File

Skeleton

*c.c. has arranged distribution
to Polads*

OCT 17 1946

SECRET

3:32

Cpy. 9. Security Division

MINUTE

3rd October 1946

TO : A/Ex. Commissioner.

I have spoken again to AFHQ G-5 (Lt. Col. WHITE) on the 3rd October on the subject of proper channels to be followed as regards requests from Allied representatives in Italy for arrest of listed war criminals.

Col. WHITE said that if representatives of Allied Governments in Italy present to ALCOM requests for arresting listed war criminals, the Allied representatives should be informed that they can forward such requests either to AFHQ or to the Italian Government, since the Allied Commission is not the correct channel either to AFHQ or to the Italian Government for any Allied Government who has some sort of diplomatic relations with Italy. ALCOM is the correct channel only for AFHQ if the latter wants to ask the Italian Government to arrest a listed war criminal.

The procedure laid down on this subject by AFHQ G-5 letter of 4 February as amended by G-5 letter of 28 February 1946 to the effect that the Allied Commission will act as a channel to AFHQ A-3 Branch for the arrest of listed war criminals, applies only to requests made by the Yugoslav representative on the Advisory Council for Italy, since Jugoslavia has no diplomatic relations with the Italian Government.

As regards the French request for arresting three listed Italian war criminals, Col. WHITE said that ALCOM must not take any action on the letter from GHQ of 12th September until AFHQ G-5 clarifies the matter with GHQ-A Branch, so much so since one of the three listed Italian war criminals wanted by France, namely VALENTE, is employed by the Allies in Italy. It would be just the wrong thing to do to ask the Italian Government to arrest him.

See file 4/898/B/CA

J.V. Vella

J.V. VELLA, Capt
Civil Affairs Section.

HEADQUARTERS ALLIED COMMISSION
APO 794
CIVIL AFFAIRS SECTION

File

Ref : 4/29.8/B/CA

7th Oct 46

SUBJECT : War Criminals.

TO : Polad "A"
" " "B"
Legal S/C
Public Safety S/C (Security Div).

9/10
152
266

There has been some confusion in the past as regards handling through proper channels requests from Allied representatives in Italy for arrest of listed War Criminals.

On 3rd October 46 in a telephone conversation between AFHQ (Lt.Col. WHITE) and AC Civil Affairs Section (Capt. VELLA) the following procedure has been agreed upon pending confirmation from AFHQ G-5:-

If representatives of Allied Governments in Italy present to the Allied Commission requests for arresting listed War Criminals, the Allied representatives should be informed that they can forward such requests either to AFHQ, or to the Italian Government, since the Allied Commission is not the correct channel of communication either to AFHQ or to the Italian Government for any Allied Government which has some sort of diplomatic relations with Italy.

AICOM is the correct channel only for AFHQ if the latter wants to request the Italian Government to arrest a listed War Criminal.

The procedure laid down on this subject by AFHQ G-5 letter of the 4th February as amended by G-5 letter of the 28th February 46 to the effect that Allied Commission will act as a channel to AFHQ A-3 Branch for the arrest of listed War Criminals applied only to requests made by the Yugoslav representative on the Advisory Council for Italy, since

30823

- 2 -

Yugoslavia has no diplomatic relations with the Italian Government.

In future, Public Safety S/C (Security Div) will be the only Branch at this Headquarters which will deal with applications for the arrest of listed War Criminals.

FOR THE CHIEF COMMISSIONER :

M. Carr

M. CARR, Brigadier,
VP CA Section.

HEADQUARTERS ALLIED COMMISSION
APO 794

Civil Affairs Section

7 October 46

4/29.8/B/CA

SUBJECT: - Listed War Criminals

TO : - AFHQ G-5 Section.

1. With reference to the subject of requests for the arrest of listed war criminals and telephone conversation (Lt.Col White G-5) - (Capt Vella AC CA Section) this Commission is now following the procedure given below.

2. If representatives of Allied Governments in Italy which have any form of diplomatic relations with Italy present to the Allied Commission requests for arresting listed war criminals, the Allied representatives will be informed that they can forward such requests either to AFHQ, or the Italian Government.

3. ALCOM is the correct channel for communication with Italian Government only if AFHQ wants to ask that Government to arrest a listed war criminal.

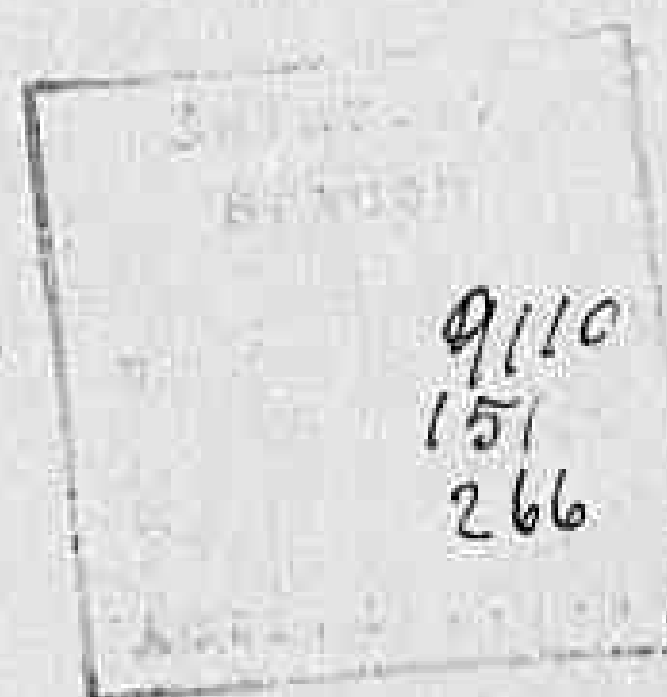
4. The procedure laid down on this subject by AFHQ G-5 letter of 4 February as amended by G-5 letter of 28 February 46 to the effect that the Allied Commission will act as a channel to AFHQ A-3 Branch for the arrest of listed war criminals, applies to requests made by the Yugoslav representative on the Advisory Council for Italy since Yugoslavia has no diplomatic relations with the Italian Government.

For the Chief Commissioner

S/ M. CARR, Brigadier
T/ M. CARR, Brigadier
VP CA Section

DISTRIBUTION

Polad "A"
" " "B"
Public Safety S/C (Security Div)
Legal S/C
GPO A Branch, CMF



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28440

Security

SC17346

H/6929

011300Z OCT

OCT 020930

ROUTINE

HQ USFET MONARNEY CITE ETALC
ALLIED CONTROL COMMISSION ROME ITALY

UNCLASSIFIED

Italian liaison section this HQ request transmission of following message of Italian Ministry of war cabinet Rome: "number 06391. Reference your 205874/2. Please inform whether Italian Government has undertaken steps for prosecution of war criminals listed in our letters 970/G and 1638/G. If did not immediate action is requested. Cable answer through Alcom. Signed Major ~~Major~~ Conati".

AC DIST

ACTION: MMIA 2

INFO: CHIEF COMMISSIONER

SECURITY DIV

FLOAT

FILE



TRANSLATION us/

TO THE ALLIED COMMISSION

- R O M E -

SUBJECT: War criminals.

Copy of a memorandum - drawn up by the Italian Govt. - concerning the procedure of judgements to be adopted against war criminals is forwarded herewith.

It is stated that the subject will be discussed in a meeting which will take place on Sept. 25 at 9,30 at the Allied Commission Offices between representatives of the Italian Govt. and Officials of the Allied Command.

For the Minister
signed: Ferrari.

TRANSLATION us/

TO THE ALLIED COMMISSION

- R O M E -

SUBJECT: War criminals.

Copy of a memorandum - drawn up by the Italian Govt. - concerning the procedure of judgements to be adopted against war criminals is forwarded herewith.

It is stated that the subject will be discussed in a meeting which will take place on Sept. 25 at 9,30 at the Allied Commission Offices between representatives of the Italian Govt. and officials of the Allied Command.

For the Minister
signed: Ferrari.

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25



Ministero dell'Interno
DIREZIONE GENERALE DELLA PUBBLICA SICUREZZA

Divisione A.G.P. *Lex* 3°
Prot. N° 443/50138 *Allegati*

872
U. Calissima
Roma 24 Settem. 1946
ALLA COMMISSIONE ALLEATA - SOTTOCOMMISSIONE PER LA P.S. ROMA

Risposta al f. del
Dir. *Lex* N°

Oggetto: Criminali di guerra.

Si trasmette per opportuna notizia copia di un appunto concernente la procedura dei giudizi a carico dei criminali di guerra, predisposto dal Governo italiano, soggiungendo che l'argomento sarà trattato nella riunione indetta per domani 25 corrente alle ore 9,30 presso gli uffici della Commissione Alleata (7° piano; M.M.I.A.) tra rappresentanti del Governo italiano e ufficiali del Comando Alleato.

PEI MINISTRO

Amari

24/9
25/9
26/9

La violazione del diritto internazionale bellico ove siano regolarmente accertate, importano, come è noto, una responsabilità dello Stato di cui è organo il militare autore materiale del torto. Tale responsabilità si traduce nell'obbligo di questo ultimo Stato di concedere allo Stato che ha sofferto la violazione una riparazione consistente nella punizione del colpevole, punizione che, normalmente, è di competenza esclusiva dello Stato cui appartiene il militare.

Se quindi questa eccezione è indubbiamente ammessa, chiari ne sono peraltro i limiti, riconosciuti da tutta la dottrina anche anglosassone, e implicati nella ragione stessa del principio: 1) non è possibile procedere, anche durante le operazioni belliche, alla punizione di un militare nemico quando esso sia già stato punito dal suo Stato nazionale per la violazione del diritto internazionale di cui esso è colpevole; 2) questo diritto eccezionale di punizione spettante ad uno Stato belligerante, cessa automaticamente col cessare della guerra guerreggiata, ossia non appena risorga per lo Stato leso la materiale possibilità di chiedere allo Stato cui appartiene l'organo incriminato, di punirlo e di riparare così al torto internazionale commesso.

Da tutto ciò consegue che se i Governi alleati potevano considerarsi legittimi a punire essi stessi direttamente dei militari italiani che risultassero avere a carico effettive violazioni del diritto internazionale di guerra, non potevano invece farlo nei confronti belliche. O, ancora finchè perdo-

La violazione del diritto internazionale bellico ove siano regolarmente accertate, importano, come è noto, una responsabilità dello Stato di cui è organo il militare autore materiale del torto. Tale responsabilità si traduce nell'obbligo di questo ultimo Stato di concedere allo Stato che ha sofferto la violazione una riparazione consistente nella punizione del colpevole, punizione che, normalmente, è di competenza esclusiva dello Stato cui appartiene il militare.

E' noto tuttavia che il diritto internazionale concede eccezionalmente allo Stato leso, quando vi sia lo stato di guerra guerreggiata, il diritto di procedere esso stesso alla punizione dei militari nemici autorit di "war crimes" che, durante le operazioni belliche, cadano nelle sue mani. La ragione di tale eccezione che si trova ribadita dalle istruzioni militari di tutti i paesi è evidente, in quanto finchè perdura la lotta armata lo Stato leso si troverebbe altrimenti nell'impossibilità assoluta di ottenere soddisfazione delle violazioni subite. Sia infatti che lo Stato avversario si sia rifiutato di procedere alla richiesta punizione dei colpevoli, sia che, pur volendolo, non possa farlo perchè gli organi incriminati non si trovino ormai più a sua disposizione essendo caduti in mano del nemico, i colpevoli resterebbero impuniti e lo Stato leso non soddisfatto del torto patito se, in questa ipotesi eccezionale, non gli competesse il diritto di procedere esso stesso alla punizione.

Se quindi questa eccezione è indubbiamente ammessa, chiari ne sono peraltro i limiti, riconosciuti da tutta la dottrina anche anglosassone, e implicati nella ragione stessa del principio: 1) non è possibile procedere, anche durante le operazioni belliche, alla punizione di un militare nemico quando esso sia già stato punito dal suo Stato nazionale per la violazione del diritto internazionale di cui esso è colpevole; 2) questo diritto eccezionale di punizione spettante ad uno Stato belligerante, cessa automaticamente col cessare della guerra guerreggiata, ossia non appena risorga per lo Stato leso la materiale possibilità di chiedere allo Stato cui appartiene l'organo incriminato, di punirlo e di riparare così al torto internazionale commesso.

23

Da tutto ciò consegue che se i Governi alleati potevano considerarsi legittimi a punire essi stessi direttamente dei militari italiani che risultassero avere a carico effettive violazioni del diritto internazionale di guerra, finchè perduravano le operazioni belliche, o, ancora finchè perdurava il governo militare alleato, tale suo potere è peraltro assolutamente cessato dal momento in cui il territorio italiano è stato restituito alla normale amministrazione del Governo Italiano. Da tale momento non può esservi dubbio che il Governo Italiano ha riacquisito pienamente la sua esclusiva competenza a procedere esso stesso direttamente alla punizione dei colpevoli, ed a fornire così ai Governi alleati la dovuta soddisfazione per le violazioni degli obblighi internazionali che questi ultimi avessero dovuto patire.

./.

- 2 -

Tale conclusione è del resto confermata pienamente dalle dichiarazioni alleate. Mentre infatti l'armistizio di Malta - redatto quando le operazioni perduravano e mentre qualche incertezza poteva ancora sussistere sulla sorte dello Stato Italiano e sulle possibilità di ottenere da esso la punizione dei criminali di guerra - prevedeva la consegna alla forze delle Nazioni Unite delle persone sospette di aver commesso crimini di guerra, già la stessa dichiarazione di Mosca del 30 ottobre 1943 sull'Italia, abbandonava tale criterio e stabilendo espressamente un diverso trattamento per l'Italia e per la Germania, chiedeva solo, per la prima, che "i generali dell'esercito conosciuti e sospetti per essere criminali di guerra siano consegnati alla giustizia" - espressione con la quale non si poteva evidentemente intendere altro che la giustizia per essi competente, ossia la giustizia italiana.

Il Governo Italiano è naturalmente pronto ad iniziare immediatamente tutti quei procedimenti che i Governi alleati vorranno richiederli per l'accertamento e l'eventuale punizione delle violazioni del diritto internazionale di guerra commesso da militari italiani, e a dare per tale via la dovuta soddisfazione ai Governi alleati ogni qualvolta essa risulti giuridicamente dovuta.

HEADQUARTERS, ALLIED COMMISSION
A.P.O. 394
PUBLIC SAFETY SUB COMMISSION
SECURITY DIVISION

RMP : RD/266.5

17 June 1946

SUBJECT : War Criminals - Execution of

TO : C-5 AFHQ

1. Reference your C-5: 000.5-1 dated 12 February 1946.

2. For the purpose of registration particulars, as under, of the execution of war criminals of Italian nationality should be forwarded to the "Procura Generale presso la Corte d'Appello" of the district where the execution is carried out.

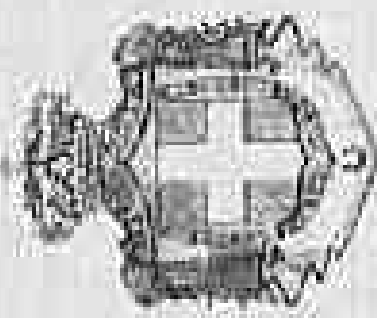
- a. Surname
- b. Christian names
- c. Paternity
- d. Maternity
- e. Date and place of birth
- f. Home address
- g. Profession or occupation
- h. Place, date and hour of execution.

W. J. Rye
W. J. RYE,
Colonel,
A/Director Public Safety,
Sub Commission.

Copy to: A-3, G.M. 9., C.M.F.

21

768



P.C.

Ministero dell'Interno

DIREZIONE GENERALE
DELLA PUBBLICA SICUREZZA

Divisione A.G.R. - Sez. II

Prot. N. 442/11280 Allegati

OGGETTO

Criminali di guerra italiani - esecuzioni.

Risposta al Foglio del 15/2/1946

Dir. Sez. SD/266-5 M

R C M A

ALL'ON. COMMISSIONE ALLEATA

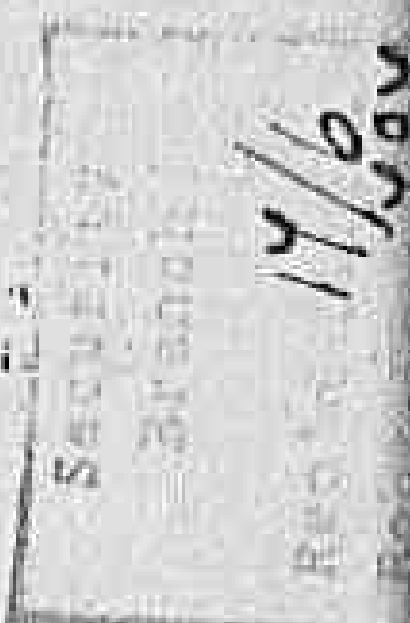
Sottocommissione per la P.S.

Roma, 13 giugno 1946

In relazione alla nota suindicata, si comunica che, secondo questo Ministero, dato lo scopo di promuovere la formazione degli atti di morte, in ordine all'oggetto, sarebbe opportuno che le Autorità Alleate facessero le comunicazioni relative alla esecuzione della pena capitale alla Procura Generale presso la Corte di Appello del luogo nel quale avvenne l'esecuzione, fornendo le indicazioni necessarie per la compilazione dell'atto di morte, quali la generalità del giustiziato (nome, cognome, paternità e maternità, luogo di nascita, età, residenza, professione) nonché il luogo, il giorno e l'ora della morte.

PEL MINISTRO

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Divisione A.G.R. Sec. II
Prot. N. 442/11280 Allegati

R C M A

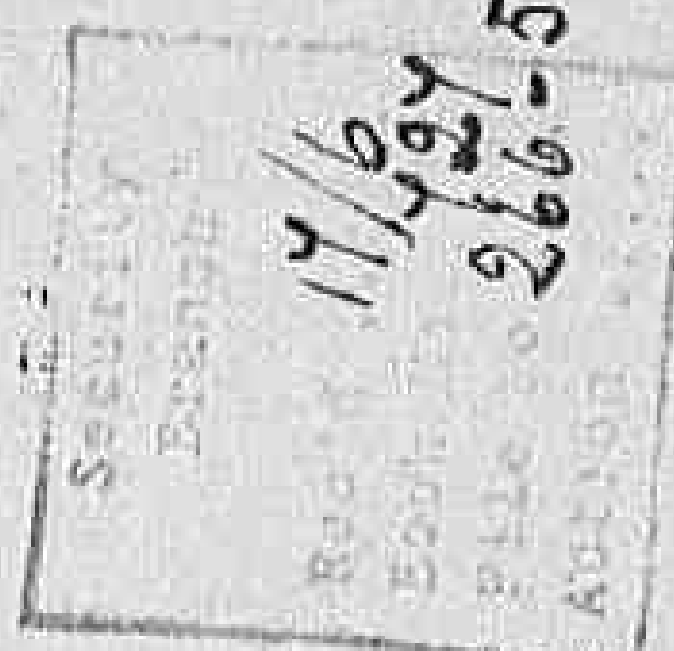
Proposta al Foglio del 15/2/1946
Dir. 22 SD/266-5 N.
OGGETTO Criminali di guerra italiani - esecuzioni.

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PEL MINISTRO

Amari

20



Ref. the a/m note we beg to inform you that for registration of sentences of death which passed on war criminals of Italian nationality, particulars (Christian name - surname - father's name - date and place of birth - residence - profession - place, date and hour when death happened) have to be sent by the Authority carrying out the execution, to the Procura Generale presso la Corte d'Appello of the place where the execution happened -

HEADQUARTERS ALLIED COMMISSION
A.P.O. 394
PUBLIC SAFETY SUB COMMISSION
SECURITY DIVISION

REF : SD/266.5

6 June 1946

SUBJECT : War Criminals, Execution of

TO : Ministry of Interior,
General Direction of Public Safety.

1. Reference our letter of even number dated 15 Feb. 46.
2. May a reply please be expedited to paragraph 2 of the above letter.

EJB
E.J. BYE,
Colonel,
A/Director Public Safety,
Sub Commission.

AHE/nb

18

609

HEADQUARTERS ALLIED COMMISSION
A.P.O. 394
PUBLIC SAFETY SUB COMMISSION
SECURITY DIVISION

(12)

RRF.

SD/266 - 5

15 Feb. 1946

SUBJECT :War criminals, Execution of.

TO :Ministry of Interior, General Division of Public Safety.

I. It is presumed that the Italian Authorities will require for registration particulars as to the carrying out of sentences of death on war criminals of Italian nationality.

2. Will you please inform this Division to what Government Department particulars should be sent by the authority carrying out the execution. If any special details are required please submit details.

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

AHE/ua

ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

12 February 1946

G-5: 000.5-1

SUBJECT: Execution of War Criminals.

TO : Headquarters, Allied Commission,
APO 394.

1. It is presumed that the Italian Authorities will require for Registration, particulars as to the carrying out of sentences of death on War Criminals of Italian Nationality.

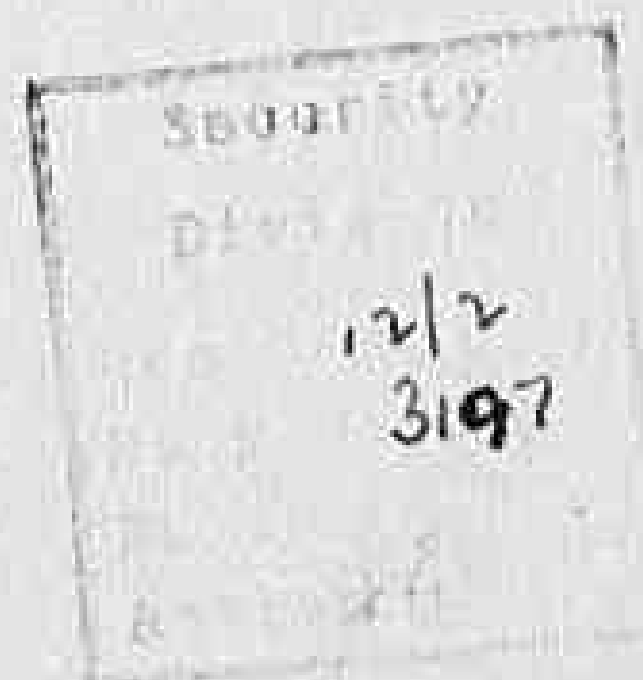
2. If this is so will you please ascertain to what body particulars should be sent by the authority carrying out the execution and if any special particulars are required please obtain details.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

F. G. A. Parsons
F. G. A. PARSONS,
Brigadier,
Acting Assistant Chief of Staff, G-5.

Copy to:

A 3



ALLIED FORCE HEADQUARTERS
G-5 Section
APO 512

12 February 1946

G-5: 000.5-1

SUBJECT: Execution of War Criminals.

TO : Headquarters, Allied Commission,
APO 394.

1. It is presumed that the Italian Authorities will require for Registration, particulars as to the carrying out of sentences of death on War Criminals of Italian Nationality.

2. If this is so will you please ascertain to what body particulars should be sent by the authority carrying out the execution and if any special particulars are required please obtain details.

BY COMMAND OF LIEUTENANT GENERAL MORGAN:

F. G. A. Parsons
F. G. A. PARSONS,
Brigadier,
Acting Assistant Chief of Staff, G-5.

Copy to:
A 3 .

RESTRICTED

21 SEP 1945

HEADQUARTERS
MEDITERRANEAN THEATER OF OPERATIONS
UNITED STATES ARMY
APO 512

LCK/g-m

CIRCULAR)
NUMBER 114)

23 September 1945

REGULATIONS FOR THE TRIAL OF WAR CRIMES

1. As used in these regulations the expression "war crime" means a violation of the laws or customs of war.
2. Military commissions appointed by the Theater Commander or by other commanders under authority delegated to them by the Theater Commander, shall have jurisdiction to try all cases referred to them of persons accused of committing war crimes.
3. A military commission shall consist of not less than three officers, the senior present at any trial being president. For each military commission there shall be appointed a judge advocate and a defense counsel with such assistants as may be required, these duties shall be similar to those of like officers before general courts-martial.
4. The president of a military commission is empowered to appoint court reporters and interpreters who shall be entitled to such compensation as may be authorized by law and regulation.
5. A formal charge and investigation as provided for court-martial procedure is not required for military commissions. The charge may state the offense by its legal name or may describe it in terms of international law. The specification may in non-legal terms set forth the details of the act constituting the offense. It should also include expressions to enable the commission to determine its jurisdiction both in respect of the offense and the accused. The charges should be subscribed by any person subject to military law but need not be under oath.
6. Members of a military commission may be challenged for cause either by the accused or by the judge advocate, but they shall not be subject to removal upon a peremptory challenge.
7. The oaths prescribed by Article of War 19 for courts-martial shall be applied to military commissions, judge advocates, interpreters and witnesses with such modification as to make them appropriate to military commissions.
8. Military commissions may conduct their proceedings as may be deemed necessary for a full and fair trial, having regard for but not being bound by, the rules of procedure prescribed for general courts-martial.
9. The fact that an accused acted pursuant to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment if the commission determines that justice so requires.

- 1 -

RESTRICTED

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R E S T R I C T E D

Hq MTOUSA Circular Number 114 (cont'd).

10. The technical rules of evidence shall not be applied but any evidence shall be admitted which, in the opinion of the president of the commission, has any probative value to a reasonable man. Without limiting the scope of the above rule the following in particular will apply:

a. If any witness is dead or is unable to attend or to give evidence or is, in the opinion of the president of the commission, unable to attend without undue delay, the commission may receive secondary evidence of statements made by or attributed to such witness.

b. Any document purporting to have been signed or issued officially by any member of any allied or enemy force or by any official or agency of any allied, neutral or enemy government, shall be admissible as evidence without proof of the issue or signature thereof.

c. Any report by any person when it appears to the president of the commission that the person in making the report was acting within the scope of his duty may be admitted in evidence.

d. Any deposition or record of any military tribunal may be admitted in evidence.

e. Any diary, letter or other document may be received in evidence as to the facts therein stated.

f. If any original document cannot be produced or, in the opinion of the president of the commission, cannot be produced without undue delay, a copy or translated copy of such document or other secondary evidence of its contents may be received in evidence. A translation of any document will be presumed to be a correct translation until the contrary is shown.

g. Photographs, printed and mimeographed matter, and true copies of papers are admissible without proof.

h. Confessions are admissible without proof of circumstances or that they were voluntarily made. The circumstances surrounding the taking of a confession may be shown by the accused and such showing may be considered in respect of the weight to be accorded it, but not in respect of its admissibility.

11. A military commission shall record its proceedings as nearly as practicable as prescribed for a general court-martial.

12. Convictions and sentences shall be determined by the concurrence of at least two-thirds of the members present at the time the vote is taken.

13. Appropriate sentences imposed by a military commission are:

- a. Death (by hanging or shooting)
- b. Confinement for life or a lesser term
- c. Fine

RESTRICTED

Hq MTOUSA Circular Number 114 (cont'd).

14. No sentence imposed by a military commission shall be carried into execution until it shall have been approved by the appointing authority.

15. No sentence of death shall be carried into execution until it shall have been confirmed by the Theater Commander, but where the military commission that imposed the death sentence was appointed by the Theater Commander and he has acted on the sentence as approving authority, no additional confirmation by him is necessary.

BY COMMAND OF GENERAL MCNARNEY:

OFFICIAL:

M. G. WHITE
Major General, GSC
Acting Chief of Staff

C. W. Christenberry
C. W. CHRISTENBERRY
Colonel, AGF
Adjutant General

DISTRIBUTION:

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	TO		
X	DIR. FOR	1/10	
X	SEC. DIR.		
	EXEC. OF	224	22-9
	POLICE	11	
	CL. & CTS.		
	PRISONS		
	ADM. OFFICER		
X	SECURITY		
	CHIEF CLERK		

RESTRICTED

-4 SET. 1945

SUBJECT: Italians Listed as War Criminals.C.A. Sec 3958
CONFIDENTIAL
4 SET. 1945

ALLIED FORCE HEADQUARTERS.

G1/Br/15000/L-3.

HQ Allied Commission,
A.P.O. 394.

2 Sep 45.

With reference to this HQ letter AGOCC.5/197 JA-0 dated 13 Jun 45 and conversation Lt Col PASSINGHAM/Lt Col BOWMAN-CARTER.

1. It is requested that information may be supplied as to the steps being taken by the Italian government to trace and make available persons listed in United Nations War Crimes Commission lists of War Criminals, suspects and witnesses.
2. A considerable time has elapsed since the first names were submitted for transmission to the Italian Government and no wanted person has yet been traced or made available as a result of our request.
3. May all possible steps be taken to ensure that the Italian Government takes the necessary action in this matter and the progress of such action be watched by your HQ so that the matter is not shelved.
4. Copies of United Nations War Crimes List No 12 containing names of additional Italians wanted as War Criminals, suspects and witnesses but with all mention of the accusation against them deleted as before, are being despatched to you shortly for transmission to the Italian Government.

TO	INT	DATE
DIRECTOR		
DEPUTY DIRECTOR		
EXEC. OFFICER		
POLICE		27 8-9
U.C. 1 PEG.		
DISCOS		
ADJ. GEN.		
SEC. STAFF		
CHIEF CLERK		

Jlb.

[Signature]
Major General,
DAC, G1(Br).

SECRET

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

Ref AC/14754/8/PS

21 June 45

SUBJECT : Italians Listed as War Criminals

TO : See Distribution Below

- 1 It is not proposed to supply RPSOs with copies of the lists of Criminals. The responsibility for dealing with such people does not lie primarily with Public Safety Sub-Commission and PS Officers, but with the Military Authorities.
- 2 It is, however, necessary that you should know what action has been taken and, for that reason, copies of War Crimes Circular No. 1 and AG 000.5/197 JA-O of 13 June are enclosed.
3. The Italian Government has been supplied with the lists in accordance with the latter letter. Should you be approached with information as in para 3 of that letter you will forward it to Public Safety Sub-Commission immediately by fastest available means. Checking as to whether the person is, in fact, on the list can be done at this HQ.

BY COMMAND OF THE CHIEF COMMISSIONER

s/?????????????
t/ G.R. UPJOHN Brig.,
VP CA Section

DISTRIBUTION:

RGs Emilia, Liguria, Lombardia, Piemonte, Venezie Regions.
SCAOs 8 Army, 5 Army, IV Corps, XIII Corps.
DCCAO - 15 Army Group.
Scale of Distribution: RHQ and SCAO (4); PHQ (2)
AMG Commissioners Naples, Ancona, Leghorn
AMG Liaison Officers Palermo, Catania, Bari, Roma
Exec Commissioner Econ. Sec. Legal Sub Commission

C O P Y

10

C O P Y

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ALLIED FORCE HEADQUARTERS
APO 512

AG 000.5/197 JA-0

13 June 1945

SUBJECT : Italians Listed as War Criminals

TO : Chief Commissioner
Allied Commission
APO 394

1. The following instructions are issued with reference to AFHQ War Crimes Circular Number 1, dated 13 June 1945.
2. The names and personal particulars only of Italians included in the lists issued by the United Nations War Crimes Commission will be handed by you to the Italian Government with the information that such persons are required by the Allied Authorities and a request that they will be traced and made available. It will not be mentioned that they are wanted in connection with War Crimes nor will any indication be given of the accusation against them.
3. If the Italian authorities state that persons listed are held in their custody details will be requested concerning place of detention and the purpose for which they are held and the information passed to this headquarters immediately. No steps will be taken to remove such persons from the custody of the Italian authorities or to delay any trial in which they may be concerned.
4. The distribution to Italian authorities of names of wanted personnel will be kept to the minimum in order to prevent the names coming to the knowledge of unauthorized persons.
5. All information concerning Italians included in the lists will be reported as prescribed in War crimes Circular Number 1.

BY COMMAND OF FIELD MARSHAL ALEXANDER

s/ C.W. CHRISTENBERRY
Colonel, AGD
Adjutant General.

HEADQUARTERS ALLIED COMMISSION
A.P.O. 394
PUBLIC SAFETY SUB COMMISSION
SECURITY DIVISION

(6)

REF

SD/645.12

260

18 June 1945

SUBJECT : War Criminals

TO

: See Distribution

1. A Section of S.I.B. charged with the investigation of War Crimes is now located at Florence and their enquiries take them over the whole of Northern Italy.

2. An index of war criminal who are "wanted" is held at AFHQ, and any information concerning them can be obtained through:-

Capt. SLOWE
78 Section (S.I.B.)
c/o Provost Marshall
Florence (Tel. Florence 1326)
or Lt. FOX (Florence 1278)

S. J. Harvey
S.J. HARVEY, *Cap*
Major,
Security Division.

Distribution:

RSO, Liguria Region
RSO, Piemonte Region
RSO, Lombardia Region
RSO, Venezia Region
File SD/266.01

CONFIDENTIAL

~~CONFIDENTIAL~~

A SECTION (5)

RHF/jcm

ALLIED FORCE HEADQUARTERS
APO 512

AP 191

3057

11
AG 000.5/197 JA-O

13 June 1945

15 JUL 1945

SUBJECT: Italians Listed as War Criminals

TO: Chief Commissioner
Allied Commission
APO 394

1. The following instructions are issued with reference to AFHQ War Crimes Circular Number 1, dated 13 June 1945.

2. The names and personal particulars only of Italians included in the lists issued by the United Nations War Crimes Commission will be handed by you to the Italian Government with the information that such persons are required by the Allied authorities and a request that they will be traced and made available. It will not be mentioned that they are wanted in connection with War Crimes nor will any indication be given of the accusation against them.

3. If the Italian authorities state that persons listed are held in their custody details will be requested concerning place of detention and the purpose for which they are held and the information passed to this headquarters immediately. No steps will be taken to remove such persons from the custody of the Italian authorities or to delay any trial in which they may be concerned.

4. The distribution to Italian authorities of names of wanted personnel will be kept to the minimum in order to prevent the names coming to the knowledge of unauthorized persons.

5. All information concerning Italians included in the lists will be reported as prescribed in War Crimes Circular Number 1.

BY COMMAND OF FIELD MARSHAL ALEXANDER:

G. W. CHRISTENBERRY
Colonel, AGD
Adjutant General

DISTRIBUTION:

5 - Addressee	1 - FMC (C)
1 - G-1 (A)	1 - PM (B)
1 - G-1 (B)	2 - AG Records
1 - G-2	
1 - G-5	
1 - JA	

14 JUN 1945

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ALLIED FORCE HEADQUARTERS
APO 512

14 JUN 1945

WAR CRIMES CIRCULAR)

NUMBER 1)

AP 192
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: Auth: SAC MT :
: Initials: DCK :
: 13 June 1945 :
: : : : :
DCK/fs

13 June 1945

1. a. The Combined Chiefs of Staff have stated that a directive defining responsibility in respect of war crimes is awaiting governmental decisions. Directions have also been received that upon receipt from the United Nations War Crimes Commission of lists of war criminals, and pending further instructions from the Combined Chiefs of Staff, the persons listed may be taken into custody and detained without further evidence against them. They will not, however, at present be arrested as "WAR CRIMINALS" but as normal PW or on security grounds.

b. Italians who are listed as war criminals and who are at large in ITALY may also be apprehended, but further directions are to be sought in all cases in which they may already have been detained by the Italian authorities or in cases in which the persons listed are now collaborating with us.

2. Up to the present moment seven (7) lists of war criminals have been received from the United Nations War Crimes Commission. It is anticipated that further lists will be issued and copies of all lists (except lists of Japanese) will be circulated to all concerned.

3. A Central Index has been established for AFHQ in G-1(Br) on which all information as to the arrest and disposal of persons listed is to be recorded.

4. a. Commanding Generals, Fifth and Eighth Armies, PBS and No. 1 District are respectively responsible for determining whether any persons on the lists are under their control.

b. If any person under their control is identified as a person on any list, or there are reasonable grounds to believe that he is identical with a person listed, they will order the status of such person (if not already a PW or interned as a security suspect) to be changed to that of a PW or internee on security grounds, and he will be passed through the normal channels to the appropriate detention area.

5. In order that accurate information may be available in the Central Index office at this headquarters concerning the status and location of each suspect apprehended, an immediate report by signal if practicable will be transmitted to this headquarters in all cases in which action is taken under paragraph 4b above. This report will include the name, the enemy unit, the date of arrest and the place and mode of detention. Any change in the place of detention will be notified in the same way. All reports relating to suspects will include the words "WAR CRIME". If report is made other than by signal it will be prepared in duplicate, one copy marked for G-1(Br) and the other for Theater Judge Advocate, MTOUSA.

6. Addressees will report to this headquarters any cases which may come to their knowledge in which Italians listed as war criminals have already been detained by the Italian authorities. Any available information as to place of and

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AFHQ War Crimes Circular #1 (Cont'd)

reason for detention will be included in the report which will also include the words "WAR CRIME"; no steps will be taken to request the Italian authorities to hand over any person in their custody; any further action necessary will be taken by this headquarters.

7. If in any case an Italian at large in ITALY is identified as a listed war criminal and he is known to have been collaborating with the Allies he will nevertheless be taken into custody as a security suspect, but a full report on the nature and extent of his collaboration will be forwarded as soon as possible after the preliminary report of his detention.

8. No person in detention as a listed War Criminal will be surrendered to the representatives of a nation other than UK or US.

9. In the event that any commander, other than those referred to in paragraph 4a, discovers a person under his control who is listed as a War Criminal, he will take action in conformity with this directive.

10. The foregoing instructions do not affect in any way the existing British and US directives relating to the investigation of war crimes within the respective forces.

BY COMMAND OF FIELD MARSHAL ALEXANDER:

C. W. Christenberry
C. W. CHRISTENBERRY
Colonel, AGD
Adjutant General

DISTRIBUTION:

5 - War Office AG3 (VW)	10 - PBS
5 - TAG	5 - SD, PBS
5 - JAG, London	10 - Adriatic Base Command
10 - SHAFF	10 - 2677th Regt OSS (Prov)
5 - CHQ Middle East	5 - G-1 (A)
10 - 15th Army Group	5 - G-1 (E)
10 - Eighth Army	5 - G-2
25 - Fifth Army	2 - G-3
10 - Each Corps	5 - G-5
5 - Each Division	2 - Br Reg, Min.
5 - Pz Div Army (Br Inc)	2 - US POLAD
10 - HQ Land Forces Greece	2 - JAG
5 - REAT	2 - ISAG
5 - AAG/ATO	2 - JAG
10 - XVI AF	2 - PWG (Br)
10 - XV AF	2 - ZIK
5 - AAFSC/ATO	5 - G-2-4 Med
5 - AAFSC/ATO	
5 - Hq 43	
10 - No. 1 Dist	
10 - No. 2 Dist	
10 - No. 3 Dist	

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: 13 June 1945 :
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14 JUN 1945

13 June 1945

6. Addressees will report to this headquarters any cases which may come to their knowledge in which Italians listed as war criminals have already been detained by the Italian authorities. Any available information as to place of and

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AFHQ War Crimes Circular #1 (Cont'd)

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7. If in any case an Italian at large in ITALY is identified as a listed war criminal and he is known to have been collaborating with the Allies he will nevertheless be taken into custody as a security suspect, but a full report on the nature and extent of his collaboration will be forwarded as soon as possible after the preliminary report of his detention.

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9. In the event that any commander, other than those referred to in paragraph 4a, discovers a person under his control who is listed as a War Criminal, he will take action in conformity with this directive.

10. The foregoing instructions do not affect in any way the existing British and US directives relating to the investigation of war crimes within the respective forces.

BY COMMAND OF FIELD MARSHAL ALEXANDER:

C. W. Christenberry
C. W. CHRISTENBERRY
Colonel, AGD
Adjutant General

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5 - War Office AG3 (VW)	10 - PBS
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10 - Eighth Army	5 - G-2
25 - Fifth Army	2 - G-3
10 - Each Corps	5 - G-5
5 - Each Division	2 - Br. Res. Min.
5 - Fifth Army (Br Inc)	2 - US POLAD
10 - Hq Land Forces Greece	2 - JAG
5 - HQAF	2 - DTAG
5 - LAF/MTO	2 - PEG
10 - XVI AF	2 - PMG (Br)
10 - XV AF	2 - LIR
5 - AFHQ/MTO	5 - G-2nd Med
5 - AFHQ/MTO	5 - COMNAVFOR
5 - Hq AG	2 - GHQ 2nd Echelon
10 - No. 1 Dist	2 - AG Records
10 - No. 2 Dist	1 - AG MED
10 - No. 3 Dist	

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CONFIDENTIAL

Allied Force H.Q.
6 Feb 44

WAR CRIMINALS

The following procedure will be adopted by British forces in this theater in order to implement the directive of the Combined Chiefs of Staff of 29 Oct 43 and Allied Force Headquarters Circular (War Criminals) under reference AG 000. 5-1 G.A.P.--A.G.H., dated 27 Nov 43.

For the purpose of this directive war crimes are defined as violations of the laws and customs of war, examples of which are set out in paragraph 443, chapter XIV, Manual of Military Law.

As soon as any circumstances suggesting the commission of a war crime come to the notice of any officer he will immediately notify his commanding officer who will cause an investigation to be made and if necessary, apply through the usual channels for the assistance of the Field Security Police. Statements will be obtained from any available witnesses.

When the investigation has been completed a brief report together with any statements obtained from witnesses will be forwarded through the usual channels to DJAG, AFHQ, who will advise G-1(B) whether a court of inquiry should be assembled, its terms of reference, and the witnesses to be summoned. If a court of inquiry is ordered to assemble, it will do so, when practicable, at or near the scene of the alleged crime. It will consist of two officers, the president being a member of the Deputy Judge Advocate staff of the Judge Advocate General and the convening officer will order that the evidence be taken on oath.

Whenever practicable the accused will be present and will have the right to be represented by a military officer as counsel.

The court will record all relevant evidence whether for or against the accused and will receive any evidence which in their opinion has probative value.

The evidence will be recorded in narrative form except that the cross-examination of witnesses will, upon the request of the accused, be recorded in the form of question and answer.

Each witness will sign his name at the foot of the record of his evidence.

The examination and cross-examination of witnesses will normally be conducted by a military officer, termed military counsel (when practicable a member of the JAG's legal staff) and by a military officer, termed defence counsel (when practicable an officer with legal qualifications).

The president may question any witness in order to supplement the information adduced by counsel.

The following certificate will be signed by the president and member at the foot of the proceedings:-

CERTIFICATE

XIV, Manual of Military Law.

As soon as any circumstances suggesting the commission of a war crime come to the notice of any officer he will immediately notify his commanding officer who will cause an investigation to be made and if necessary, apply through the usual channels for the assistance of the Field Security Police. Statements will be obtained from any available witnesses.

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The president may question any witness in order to supplement the information adduced by counsel.

The following certificate will be signed by the president and member at the foot of the proceedings:-

CERTIFICATE

The above witnesses appeared in person before us this.....day of.....1944, at.....and (in the presence of the accused, who was afforded the opportunity to cross-examine)+ gave evidence upon oath as set out above.

+If the accused was not present the words in brackets will be omitted.

The president will forward the proceedings together with the convening order, under secret cover to the convening officer who will forward them to DJAG, AFHQ.

G.1B/3305/A3

CONFIDENTIAL

ALLIED FORCE H.Q.

6 Feb 44

WAR CRIMINALS

The following procedure will be adopted by British forces in this theatre in order to implement the directive of the Combined Chiefs of Staff of 29 Oct 43 and Allied Force Headquarters Circular « War Criminals » under reference AG 000. 5-1 G.A.P.—A.G.M., dated 27 Nov 43.

For the purpose of this directive war crimes are defined as violations of the laws and customs of war, examples of which are set out in paragraph 443, chapter XIV, Manual of Military Law.

As soon as any circumstances suggesting the commission of a war crime come to the notice of any officer he will immediately notify his commanding officer who will cause an investigation to be made and if necessary, apply through the usual channels for the assistance of the Field Security Police. Statements will be obtained from any available witnesses.

When the investigation has been completed a brief report together with any statements obtained from witnesses will be forwarded through the usual channels to DJAG, AFHQ, who will advise G-1(B) whether a court of inquiry should be assembled, its terms of reference, and the witnesses to be summoned. If a court of inquiry is ordered to assemble, it will do so, when practicable, at or near the scene of the alleged crime. It will consist of two officers, the president being a member of the Deputy Judge Advocate staff of the Judge Advocate General and the convening officer will order that the evidence be taken on oath.

Whenever practicable the accused will be present and will have the right to be represented by a military officer as counsel.

The court will record all relevant evidence whether for or against the accused and will receive any evidence which in their opinion has probative value.

The evidence will be recorded in narrative form except that the cross-examination of witnesses will, upon the request of the accused, be recorded in the form of question and answer.

Each witness will sign his name at the foot of the record of his evidence.

The examination and cross-examination of witnesses will normally be conducted by a military officer, termed military counsel (when practicable a member of the JAG's legal staff) and by a military officer, termed defence counsel (when practicable an officer with legal qualifications).

The president may question any witness in order to supplement the information adduced by counsel.

The following certificate will be signed by the president and member at the foot of the proceedings :—

CERTIFICATE

The above witnesses appeared in person before us this day of 1944, at and [in the presence of the accused, who was afforded the opportunity to cross-examine] * gave evidence upon oath as set out above.

For the purpose of this directive war crimes are defined as violations of the laws and customs of war, examples of which are set out in paragraph 443, chapter XIV, Manual of Military Law.

As soon as any circumstances suggesting the commission of a war crime come to the notice of any officer he will immediately notify his commanding officer who will cause an investigation to be made and if necessary, apply through the usual channels for the assistance of the Field Security Police. Statements will be obtained from any available witnesses.

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Whenever practicable the accused will be present and will have the right to be represented by a military officer as counsel.

The court will record all relevant evidence whether for or against the accused and will receive any evidence which in their opinion has probative value.

The evidence will be recorded in narrative form except that the cross-examination of witnesses will, upon the request of the accused, be recorded in the form of question and answer.

Each witness will sign his name at the foot of the record of his evidence.

The examination and cross-examination of witnesses will normally be conducted by a military officer, termed military counsel (when practicable a member of the JAG's legal staff) and by a military officer, termed defence counsel (when practicable an officer with legal qualifications).

The president may question any witness in order to supplement the information adduced by counsel.

The following certificate will be signed by the president and member at the foot of the proceedings:—

CERTIFICATE

The above witnesses appeared in person before us this day of 1944, at and [in the presence of the accused, who was afforded the opportunity to cross-examine]* gave evidence upon oath as set out above.

*If the accused was not present the words in brackets will be omitted.

The president will forward the proceedings together with the convening order, under secret cover to the convening officer who will forward them to DJAG, AFHQ.

PSS/NA/2/44/6,000—AFHQ Press 1594

G.1B/3305/A3

Copy sent to R. H. H.

RESTRICTED

HEADQUARTERS
NORTH AFRICAN THEATER OF OPERATIONS
UNITED STATES ARMY
APO 534

10 FEB 1944

2850

545

Adm. Sec.

J. J.

32

CIRCULAR)
NUMBER 11)

26 January 1944

INVESTIGATION OF WAR CRIMES

1. The following procedure is established to effect the purposes of the directives concerning war crimes of the Combined Chiefs of Staff of 29 October 1943 and Allied Force Headquarters Circular of 27 November 1943.

2. For the purpose of this directive war crimes are defined to be violations of the laws and customs of war, examples of which are set forth in paragraphs 347 and 355 of the Rules of Land Warfare, U. S. Army.

3. In order that the testimony of witnesses may be recorded in such form that it shall be admissible in their absence before legal tribunals in accordance with generally accepted rules, the following procedure is prescribed:

a. Whenever practicable, witnesses will be examined and cross-examined under oath on oral interrogatories in the presence of the accused and before a military officer termed a commissioner, who, for the purpose of such examination, shall have authority to administer oaths as an officer detailed to conduct an investigation within the purview of Article of War 114, U. S. Army.

b. The accused shall be entitled to be represented by counsel.

c. The oral examination of witnesses shall normally be conducted by military officer termed military counsel and by a military officer termed defense counsel, if the accused desires counsel. The commissioner before whom a witness is being examined may interrogate the witness in order to supplement the information adduced by counsel.

d. The examination of witnesses will take place when practicable at the scene of the alleged crime and as soon thereafter as circumstances permit.

4. a. The Commanding General of each Army shall designate, from officers of his command, one officer of field grade with legal qualifications as commissioner, one officer as military counsel and one officer as defense counsel.

b. Each Army Commander shall refer to the commissioner designated by him all cases involving war crimes in which the accused is in the custody of the Army Commander. He may also refer to such commissioner cases involving war crimes if witnesses are available in his command though the accused may not be in custody or even identified.

5. a. The commissioner to whom cases are referred is responsible for their prompt investigation and reduction of the available evidence to permanent form,

US RESTRICTED Equals British RESTRICTED
 Cir #11
 Hq Natousa

as prescribed herein. To accomplish this result he is authorized to give necessary instructions to the military counsel and the defense counsel in the preparation of interrogatories and cross-interrogatories and take such action with respect to time and place for conducting the taking of testimony as circumstances warrant.

b. The commissioner is responsible for the taking of all available testimony and for submitting the same in due form to the Army Commander by whom he was designated. He will authenticate the testimony of each witness at the end of the transcript by certificate as follows:

"I certify that _____ personally appeared
 this _____ day of _____ 1944, at _____
 before me, a Commissioner
 duly designated by competent orders and in the presence of the
 accused, who was afforded the opportunity of cross-examination,
 and testified under oath in the matter of _____
 in the manner above set forth.

"Place _____ Name _____

"Date _____ Rank _____"

6. The Army Commander will transmit to this headquarters the reports of commissioners designated by him.

7. Commissioners, military counsel and defense counsel will be designated by this Headquarters to take testimony and make report in respect of the investigation of war crimes when either witnesses or the accused are not under the command of an Army Commander or for any other reason investigation by direction of an Army Commander is not practicable. Commissioners designated by this headquarters will conform to the procedure set forth herein except that their reports will be submitted directly to this headquarters.

8. Commissioners are authorized to receive any evidence which would have probative value to a reasonable man.

9. Officers may be detailed as investigators to assist commissioners.
 (AG 000.5/367)

By command of Lieutenant General DEVERS:

E. I. FORD,
 Brigadier General, GSC,
 Chief of Staff.

OFFICIAL:

/s/ H. V. Roberts,
 H. V. ROBERTS,
 Colonel, AGD,
 Adjutant General.

Reproduced, Hq Peninsular Base Section,
 APO 782, 5 February 1944

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27 November 1943

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5. Italians who commit crimes against Italian Nationals are not to be considered as war criminals and such persons will be handed over to Italian Government representatives for trial.

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2. Trials by military courts of persons suspected of war crimes will not be held unless directed by this Headquarters. Such persons will be held in custody pending decision as to their disposal. While suspects are under detention all available information about them and about war crimes of which they are suspect will be collected and forwarded to this Headquarters.

3. The following procedure will govern:

a. Secret reports, through command channels, will be made to this Headquarters containing all possible information concerning the specific individual held under detention and a war criminal suspect and concerning the time, place, character and details of the alleged war crime. It is imperative that each report include not only the names and addresses of witnesses but also the list of the evidence which each may reasonably be expected to give in any proceedings which may later be asserted to be pertinent to the case. For trial purposes. In order that these investigations may be kept strictly within command channels, they will be made by persons subject to the direct orders of the Commanding Officer making the report.

b. Reports submitted to this Headquarters shall pertain only to persons then being held in detention.

c. For the purpose of this directive, war crimes are acts committed by persons in violation of the laws and customs of war. Should any doubt exist as to whether reported acts constitute war crimes, the case will be reported as above directed for consideration by this Headquarters.

d. When reports are received at this Headquarters and further investigation is considered advisable, either unit commanders will be directed to make the supplementary investigation or the supplementary investigation will be carried on directly from this Headquarters.

e. When any change in the place of detention of a person upon whom a report has been made is directed by any authority other than this Headquarters, an immediate report of such change will be made to this Headquarters, in order that any supplementary investigation may be expeditiously carried on.

4. Situations may come to the attention of Commanding Officers in which the alleged war criminal is not in detention or may even be performing duties not incompatible with the Allied cause. In order that orderly procedure with respect to such situations may be followed, Commanding Officers will report such cases to this Headquarters with all available information.

5. Italians who commit crimes against Italian Nationals are not to be considered as war criminals and such persons will be handed over to Italian Government representatives for trial.

6. Persons who commit crimes against members of the Allied Command during the period of occupation of Italian territory may be charged and tried before military tribunals in accordance with established practice.

7. It is enjoined upon all persons of this command to refrain from giving any publicity whatever to war crimes or war criminals or to any act taken by the military forces with respect thereto.

The release of any information concerning war crimes or war criminals is specifically reserved to this Headquarters. (LG 000.5-1 G.P.-GM)

By command of General LESLIE H. BROWN:

OFFICIAL:

SGT T. J. DAVIS

W. E. SMITH

Major General, G.S.C., Chief of Staff

ALLIED FORCE HEADQUARTERS

27 Nov 45

CIRCULAR

WAR CRIMINALS

1. The ultimate disposition of persons charged with the commission of war crimes is a matter for consideration by the Governments of the Allied Nations.
2. Trials by military courts of persons suspected of war crimes will not be held unless directed by this Headquarters. Such persons will be held in custody, pending decision as to their disposal. While suspects are under detention all available information about war crimes of which they are suspect will be collected and forwarded to this Headquarters.
3. The following procedure will govern:
 - a. Secret reports, through command channels, will be made to this headquarters containing all possible information concerning the specific individual held under detention as a war criminal suspect and concerning the time, place, characters and details of the alleged war crime. It is imperative that each report include not only the names and addresses of witnesses but also proceedings which may later be resorted to to perpetuate such testimony for trial purposes. In order that these investigations may be kept strictly within command channels, they will be made by persons subject to the direct orders of the Commanding Officer making the report.
 - b. Reports submitted to this headquarters shall pertain only to persons then being held in detention.
 - c. For the purpose of this directive, war crimes are acts committed by persons in violation of the laws and customs of war. Should any doubt exist as to whether reported acts constitute war crimes, the case will be reported as above directed for consideration by this headquarters.
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4. Situations may come to the attention of Commanding Officers in which the alleged war criminal is not in detention or may be performing duties not incompatible with the Allied cause. In order that orderly procedure with respect to such situations may be followed, Commanding Officers will report such cases to this headquarters with all available information.
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The release of any information concerning war crimes or war criminals is specifically reserved to this headquarters. (AG 000.5-1 GAP. - AM).

By command of General Eisenhower:

/s/W.B. Smith

/t/W.B. Smith
Major General, G.S.C Chief of Staff.

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