

ACC 10000/146/316 LSC/1307 GENERAL ORDER - N° 35

Ap. - July 1945

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Alma 8/c
LSC/1307

HEADQUARTERS ALLIED COMMISSION
APO 394
CIVIL AFFAIRS SECTION

DE/3.39/CI.

9 July 45

SUBJECT : Defascism - Epuration of the Professions.
TO : See Distribution

Enclosed for your information are copies, in English and Italian of General Order No 35 - E.

[Signature]
C.R. UPTON, Brig,
VP CA Section.

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1941

ALLIED MILITARY GOVERNMENT OF OCCUPIED TERRITORY

GENERAL ORDER NO 35-B

REGULATION OF THE PROFESSIONS

WHEREAS it is desirable to suspend certain former members of the Fascist Party from the exercise of their professions or callings

I, ELMER WHEELER STONE, Rear Admiral, United States Naval Reserve, Chief Civil Affairs Officer, for and on behalf of the Supreme Allied Commander and Military Governor hereby order as follows:

ARTICLE I

Any person exercising such as the professions referred to in Article 23 of DIL 159 of 27 July 1944 as may be specified by order of the Regional Commissioner of the Allied Military Government shall be subject to proceedings under General Order No 35 of the Allied Military Government as modified by this Order and the provisions and principles of General Order No 35 shall apply by analogy to all such persons and proceedings.

ARTICLE II

For the purposes of this Order, Article IV, Section (a) of General Order No 35 shall be modified to read as follows:

Not later than 7 days after the coming into operation of this Order the Keeper of the Rolls in a Province of, or (as the case may be) the provincial authority supervising the professions to which this Order applies or has been made applicable by order of the Regional Commissioner mentioned in Article I hereof shall give notice to each member of the profession as may be specified by the Regional Commissioner that this Order has come into operation in that Province. Provided that the order to give such notice shall not afford a defence to a person charged with non-compliance with the provisions of General Order No 35 as modified by Article III of this Order.

ARTICLE III

(a) Members of professions are not divided into categories as provided in Article V, Section (a) of General Order No 35, but any member of a profession subject to Article 23 of DIL 159 may have time to file his statement on behalf of the Regional Commissioner.

1940

I, ELIZABETH WHEELER STONE, Rear Admiral, United States Naval Reserve, Chief Civil Affairs Officer, for and on behalf of the Supreme Allied Commander and Military Governor hereby order as follows:

ARTICLE I

Any person exercising such of the professions referred to in Article 23 of D.L. 159 of 27 July 1944 as may be specified by order of the Regional Commissioner of the Allied Military Government shall be subject to proceedings under General Order No 35 of the Allied Military Government as modified by this Order and the provisions and principles of General Order No 35 shall apply by analogy to all such persons and proceedings.

ARTICLE II

For the purposes of this Order, Article IV, Section (a) of General Order No 35 shall be modified to read as follows:

Not later than 7 days after the coming into operation of this Order the Keeper of the Rolls in a Province of, or (as the case may be) the provincial authority supervising the professions to which this Order applies or has been made applicable by order of the Regional Commissioner mentioned in Article I hereof shall give notice to all members of the profession as may be specified by the Regional Commissioner that this Order has come into operation in that Province.

Provided that the omission to give such notice shall not afford a defence to a person charged with non-compliance with the provisions of General Order No 35 as modified by Article III of this Order.

ARTICLE III

(a) Members of professions are not divided into categories as provided in Article V, Section (a) of General Order No 35, but any member of a profession subject to Article 23 of D.L. 159 may from time to time be ordered by or on behalf of the Regional Commissioner of Allied Military Government through the authority mentioned in Article II hereof to complete a schedule personnel shall complete, sign and lodge the same with the aforementioned authority within 7 days of receiving notice of such order. The said authority shall, within 2 days of the receipt of any such schedule, cause a list of such schedule to be prepared and transmitted with the schedule personnel to the appropriate Commission established under General Order No 35.

(b) For the purpose of Article V, Section (b) and (c) of General Order No 35, the authorities specified in Article II hereof shall be substituted for the "head of the administration or undertaking".

ARTICLE IV

For the purpose of Articles VI and IX of General Order No 35 the authorities specified in Article II hereof shall be substituted for the "employer".

ARTICLE V

Effect of Suspension Order -- A Suspension Order made against any person suspends that person from the exercise of his profession as from the date of the Order.

ARTICLE VI

This Order shall come into effect in any Province or part thereof on the date of its first posting therein.

FOR THE SUPREME ALLIED COMMANDER AND MILITARY GOVERNOR :

sa/

ELIERY WHEELER STONE,
Rear Admiral,
United States Naval Reserve,
Chief Civil Affairs Officer.

Dated : -9 AUG 1945

GOVERNO MILITARE ALLEATO
DEL TERRITORIO OCCUPATO

ORDINANZA GENERALE NO. 35 - B

ESPIRAZIONE DELLE PROFESSIONI

DATO che conviene sospendere alcuni elementi già appartenenti al Partito Fascista dall'esercizio della loro professione, arte o mestiere,

Io, EMILIO MARELLI, COME, Contrammiraglio della Riserva della Marina degli Stati Uniti, Ufficiale Capo degli Affari Civili, in nome e per conto del Comandante Supremo Alleato e Governatore Militare, ordino quanto segue:

ARTICOLO I

Sono soggetti al procedimento previsto dall'Ordinanza Generale No. 35 del Governo Militare Alleato, salvo le modifiche apportate dalla presente Ordinanza, coloro che esercitano, tra le professioni di cui all'Art. 23 del DL 27 luglio 1924, No 153, quelle che saranno specificate con ordinanza del Commissario Regionale del Governo Militare Alleato; alle persone ed ai procedimenti suddetti si applicheranno per analogia le disposizioni ed i principi dell'Ordinanza Generale No 35.

ARTICOLO II

Agli effetti della presente Ordinanza, la lettera (a) dell'Art. IV dell'Ordinanza Generale No 35 è modificata come segue:

Nei 7 giorni successivi all'entrata in vigore della presente Ordinanza, l'organo incaricato nella Provincia della tenuta degli Albi per l'esercizio delle professioni, arti o mestieri nei cui confronti la presente Ordinanza si applica o è resa applicabile d'ordine del Commissario Regionale menzionato all'Art. I o, se del caso, l'organo provinciale di controllo sulle dette professioni, arti o mestieri, darà avviso della entrata in vigore della presente Ordinanza nella Provincia stessa e coloro che esercitano una professione, arte o mestiere o siano qualificati dal Governatore Regionale.

Resta comunque fermo che il mancato avviso del suddetto avviso non potrà essere adotto o disconosciuto da chi sia imputato di trasgressione a le disposizioni dell'Ordinanza Generale No 35, modificata dall'Art III della presente Ordinanza.

ARTICOLO III

ARTICOLO I

Sono soggetti ai provvedimenti previsti dall'Ordinanza Generale No. 35 del Governo Militare Allente, salvo le modifiche apportate dalla presente Ordinanza, coloro che esercitano, tra le professioni di cui all'Art. 23 del D.L. 27 luglio 1944, No 159, quelle che saranno specificate con ordinanza del Commissario Regionale del Governo Militare Allente; alle persone ed ai procedimenti suddetti si applicheranno per analogia le disposizioni ed i principi dell'Ordinanza Generale No. 35.

ARTICOLO II

Agli effetti della presente Ordinanza, la lettera (a) dell'Art. IV dell'Ordinanza Generale No. 35 e' modificata come segue:

Nei 7 giorni successivi all'entrata in vigore della presente Ordinanza, l'organo incaricato nella Provincia della tenuta degli elbi per l'esercizio delle professioni, arti o mestieri nei cui confronti la presente Ordinanza si applica o e' resa applicabile d'ordine del Commissario Regionale menzionato all'Art. I e, se del caso, l'organo provinciale di controllo sulle dette professioni, arti o mestieri, dara' avviso della entrata in vigore della presente Ordinanza nella Provincia stessa a coloro che esercitano una professione, arte o mestiere e siano specificati nel Calendario Regionale.

Resta comunque fermo che il mancato avviso del suddetto avviso non potra' essere addebito a discurio da chi sia imputato di trasgressione alle disposizioni dell'Ordinanza Generale No. 35, modificate dall'Art. III della presente Ordinanza.

ARTICOLO III

(a) Gli esercenti una professione, arte o mestiere non sono ripartiti nelle categorie previste dall'Art. V, (a) dell'Ordinanza Generale No. 35, ma chiunque, esercitando una delle professioni, arti o mestieri contemplati dall'Art. 23 del D.L. 27 luglio 1944, No 159, riceve, tramite l'autorita' menzionata all'Art. II, dal Commissario Regionale del Governo Militare Allente, o in suo nome, l'ordine di ricevere una scheda personale, dove, riempita, firmata e presentata alla suddetta autorita' nei sette giorni dalla data di ricezione dell'ordine stesso. Tale autorita', nei due giorni della ricezione di ciascuna scheda, ne cura l'iscrizione in una lista da essere trasmessa, con le schede personali, alla Commissione competente istituita a norma dell'Ordinanza Generale No. 35.

(b) Agli effetti dell'Art. 7, (b) e (c) dell'Ordinanza Generale No. 35, "il Capo dell'Amministrazione ed Azienda" viene sostituito dagli organi specificati nell'Art. II della presente Ordinanza.

ARTICOLO IV

Agli effetti degli Art. VI e IX dell'Ordinanza Generale No. 35 "il datore di lavoro" viene sostituito dagli organi specificati nell'Art. II della presente Ordinanza.

ARTICOLO V

Effetti dell'ordine di sospensione. -- l'ordine di sospensione contro chiunque emanato sospende la persona dall'esercizio della sua professione, arte o mestiere a partire dalla data dell'ordine stesso.

ARTICOLO VI

La presente Ordinanza entrerà in vigore in ogni Provincia o parte di essa alla data della sua prima pubblicazione nella stessa.

PER IL COMANDANTE SUPREMO ALLEATO E GOVERNATORE MILITARE :

sd/

ELERY WHEELER STONE,
Contrammiraglio,
Riserva della Marina degli Stati Uniti,
Ufficiale Capo degli Affari Civili

CONFIDENTIAL

59/1307

HEADQUARTERS ALLIED COMMISSION

APO 394

CIVIL AFFAIRS SECTION

Handled with General order #30

22/3.44/CA

10 April 45

SUBJECT: Defascism - North Italy.

TO: See Distribution

1 - ERADICATION OF FASCISTS FROM STATE ADMINISTRATION AND STABIL AND PARASTAL CONCERNS:

1. Epuration will play an even more important role in the North than in areas already liberated. A quick and effective epuration may be decisive in securing a peaceful administration.

At the same time, this does not mean that there will be wholesale dismissals, any plan for such would not only disorganize the administration but might work grave injustices. (e.g. it is believed from reliable sources that the Judges of Piemonte, Lombardie and Venetie have refused to take the oath of allegiance to the Fascist Republican Government).

2. Epuration will therefore be conducted on the following plan:-

- a) On first entry epuration will be carried out in accordance with Executive Memorandum 67 (of which a revised edition has been issued). This will be followed by the setting up of Italian Provincial Epuration Commissions under the terms of GO 35. In provinces not yet liberated as of this date, GO 35 may be tested at any time after entry at the discretion of S.M.O. Army or IV Corps, or the Regional Commissioner, without reference to Headquarters Allied Commission. This discretion may be delegated to Provincial Commissioners.
- b) However, as the General Order sets up rigorous time limits, it should not be posted until suitable persons to sit on the Commissions have in fact been selected.
- c) Supplies of GO 35, together with Administrative Instructions and books printed in Italian for the use of the Italian Commissions, have been distributed.
- d) An amending GO 35(1) has been signed. It affects payments to be made to suspended personnel and provides for the financial rather than suspension of temporary employees (avventizi). Copies of GO 35(1) will be distributed as soon as possible, but the operation of GO 35 will not be held up by non-arrival of copies of GO 35(1).
- e) The foregoing will be followed up by the implementation under the usual procedure of DL 159 and amending Decrees in each territory. When these Decrees are implemented it is the duty of the Government to appoint three delegates in each province to collect evidence, make investigations on behalf of the High Commission, and report to the High Commission.

1 - EPURATION OF FASCISTS FROM STATE ADMINISTRATION AND STAFF AND PARASTATAL CONCERNS :-

1. Epuration will play an even more important role in the North than in areas already liberated. A quick and effective epuration may be decisive in securing a peaceful administration.
At the same time, this does not mean that there will be wholesale dismissals, any plan for such would not only disorganize the administration but might work grave injustices. (e.g. it is believed from reliable sources that the Judges of Florence, Lombardi and Venezia have refused to take the oath of allegiance to the Fascist Republic Government).
2. Epuration will therefore be conducted on the following plan:-
 - a) On first entry epuration will be carried out in accordance with Executive Memorandum 67 (of which a revised edition has been issued).
 - b) This will be followed by the setting up of Italian Provincial Epuration Commissions under the terms of GO 35. In provinces not yet liberated as of this date, GO 35 may be posted at any time after entry at the discretion of SMU Army or IV Corps, or the Regional Commissioner, without reference to Headquarters Allied Commission. This discretion may be delegated to Provincial Commissioners.
However, as the General Order sets up rigorous time limits, it should not be posted until suitable persons to sit on the Commissions have in fact been selected.
 - c) Supplies of GO 35, together with Administrative Instructions and books printed in Italian for the use of the Italian Commissions, have been distributed.
An amending GO 35(c) has been signed. It effects payments to be made to suspended personnel and provides for the dismissal rather than suspension of temporary employees (avventizi). Copies of GO 35(a) will be distributed as soon as possible, but the operation of GO 35 will not be held up by non-arrival of copies of GO 35 (c).
 - d) The foregoing will be followed up by the implementation under the usual procedure of DM 159 and amending Decree in each Territory.
When these decrees are implemented it is the duty of the Government to appoint three delegates in each province to collect evidence, make investigations on behalf of the High Commissioner, and set up Provincial Commissions. Every assistance should be given to these Delegates.
However, it is not necessary to suspend the Commissions set up under (b) above until the Government Commissions are actually nominated and ready to commence work.
3. It very well may be that the CLUs and Partisans will themselves have carried out an epuration of the administration before the arrival of the Allies and have placed new personnel in the places of those dismissed. This will render the task of epuration that much easier.

If such is found to be the case it will be advisable to remove these people from office. There would be no objection to the same individuals being appointed by AMG if considered suitable but it must be fully realized by the Italians that AMG is the appointing authority, and not CLN or any other body.

4 In other cases it may be found that there has been a mass epuration and the vacant offices have not been filled. In this case, personnel will be recruited locally, or replacements must be requested from Headquarters Allied Commission. The former is to be preferred, as the number of minor officials who can be supplied by the Italian Government is not large, and some delay in their arrival is to be anticipated. If an acute shortage of personnel makes it absolutely necessary, minor officials may have to be temporarily reinstated although they have previously been removed. Opportunity should be taken of ensuring the local populace of an immediate investigation of any persons thus reinstated in accordance with the procedure outlined in para 2 above.

B - EPURATION OF BUSINESS CONCERNS :-

5 Paragraph "A" above does not deal with the epuration of business concerns which are not statal or para-statal.

In the cases of business concerns which:-

- 1) owing to their importance it is desired to operate but have ceased to operate or operate effectively as the Fascist heads have fled; or
 - 2) are operating under Fascist heads and it is desired to continue operation - to remove the Fascist heads;
 - 3) have become ineffective as the Fascist heads have fled and the management has been "socialised" in the hands of the workers,
- use should be made of the power to appoint a Receiver and Manager (see Directive A.3/4183/L dated 17 March 1945).

C - PUNISHMENT OF FASCIST CRIMINALS AND COLLABORATORS :-

6 It is not legal for AMG to set up special Allied Courts to deal with Fascist criminals or collaborators with the Fascist Republican Government or Germans. AMG Courts are confined to trying offences against proclamations and General, Regional, or Provincial Orders or, in exceptional circumstances (see Article 14 of Consolidated Instructions for Allied Military Courts), offences against Italian Law.

Officers are also reminded that AMG Courts may not try enemy Prisoners of War or War Criminals.

7 On the other hand, it may be anticipated that local CLNs may have set up local but illegal Courts to try such criminals and collaborators. It will be the duty of AMG to do all in their power to suppress these Courts and, to assist in this difficult but essential duty, the following plan has been agreed with the Italian Government.

- a) A Decree will shortly be passed and will provide for the setting up of Special Popular Courts to deal with those who collaborated with the Germans since 25 September 1943.

temporarily reinstated although they have previously been removed. Opportunity should be taken of ensuring the local populace of an immediate investigation of any persons thus reinstated in accordance with the procedure outlined in para 2 above.

B - EPURATION OF BUSINESS CONCERNS :-

5 Paragraph "A" above does not deal with the epuration of business concerns which are not vital or para-etatal.

In the cases of business concerns which:-

- a) owing to their importance it is desired to operate but have ceased to operate or operate effectively as the Fascist heads have fled; or
- b) are operating under Fascist heads and it is desired to continue operation and remove the Fascist heads;
- c) have become ineffective as the Fascist heads have fled and the management has been "socialized" in the hands of the workers.

use should be made of the power to appoint a Receiver and Manager (see Directive J.3/4183/L dated 17 March 1945).

C - PUNISHMENT OF FASCIST CRIMINALS AND COLLABORATORS :-

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Officers are also reminded that AMG Courts may not try enemy Prisoners of War or War Criminals.

7 On the other hand, it may be anticipated that local CLNs may have set up local but illegal Courts to try such criminals and collaborators. It will be the duty of AMG to do all in their power to suppress these Courts and, to assist in this difficult but essential duty, the following plan has been agreed with the Italian Government.

- a) A Decree will shortly be passed and will provide for the setting up of Special Popular Courts to deal with those who collaborated with the Germans since 26 September 1943.

Briefly, the scheme of this Decree is that, in each Province the CLN will select 200 names from proved anti-Fascists, from which the President of the Tribunal will select a panel of 50 names. From this panel 4 lay assessors will be selected in turn and will form a Court presided over by a Judge appointed by the President of the Tribunal for the trial of these offenders. This Decree, which also provides for very quick procedure, will be published in a special issue of the Official Gazette and will bear its own endorsement by AMG implementing the Decree in AMG Territory. This Decree will be put into operation immediately. If a Prefect has been appointed it will be implemented in the normal way by handing the Official Gazette to him. If there is no Prefect, SCOs or Regional Commissioners are advised to issue a short order bringing the Decree into operation.

4. special advice to the Court Officials and CM might also be a wise precaution.
- It may be of interest to note that this Decree is based on the one now operating in France where it has proved to be a considerable success.
- b) The Italian Government have already published a decree (No 65 of 1 Feb 45) setting up special Military Courts to deal with both military and civilian offenders expeditiously. This decree will be implemented in AMG territory in accordance with the usual procedure.
8. Provided that any illegal courts^{assist} from their activities on the entry of the Allies, it is NOT imperative that the persons constituting such courts should be apprehended. It is a matter for discretion in each case, e.g. on the one hand members of the CLN may have constituted a Court in good faith under a mistaken view of their rights, on the other hand a regime of revenge and murder may have been set up under the guise of a Court of Justice.
- D - IMPRISONMENT OF FASCISTS AND COLLABORATORS:-
9. As formerly, this will continue to be a normal function of PSS/CIC and only under the powers conferred on them in para 10 of Executive Summary 67 will AMG officers arrest and intern Fascists who are not charged with a specific offence.
10. It may be anticipated that in a large number of cases there will have been wholesale arrests and imprisonments by Partisans and or CLN before the arrival of the Allies. Unless prison congestion becomes intolerable it will probably be in the best interests of all concerned to leave such persons in prison until a more settled state is reached and their individual cases can be investigated by the appropriate authority. In retaining such prisoners, AMG officers must be satisfied that (a) the prison officials can provide an effective guard, and (b) the prisoners are being properly cared for and fed, and are not the subject of malpractices by prison guards, Partisans or others.

BY COMMAND OF THE CHIEF COMMISSIONER :



G. R. WYNTER
V.P. C. Section

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1897

provided only by any illegal courts of the Allies, it is NOT imperative that the persons constituting such courts should be apprehended. It is a matter for discretion in each case, e.g. on the one hand members of the DM may have constituted a Court in good faith under a mistaken view of their rights, on the other hand a regime of revenge and murder may have been set up under the guise of a Court of Justice.

D - IMPRISONMENT OF FASCISTS AND COLLABORATORS:-

9 As formerly, this will continue to be a normal function of PSS/CIC and only under the powers conferred on them in part 10 of Executive Memo-randum 67 will AMG officers arrest and intern Fascists who are not charged with a specific offence.

10 It may be anticipated that in a large number of cases there will have been wholesale arrests and imprisonments by Partisans and or LM before the arrival of the Allies. Unless prison congestion becomes intolerable it will probably be in the best interests of all concerned to leave such persons in prison until a more settled state is reached and their individual cases can be investigated by the appropriate authority. In retaining such prisoners, AMG officers must be satisfied that (a) the prison officials can provide an effective guard; and (b) the prisoners are being properly cared for and fed, and are not the subject of malpractices by prison guards, Partisans or others.

BY COMMAND OF THE CHIEF COMMISSIONER:

G. R. Wythe
G. R. UPJOHN BRIG,
VF CL Section

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