

Translation from German

Oslo, Sept. 7, 1945

Introduction of Exception to the Prohibition
against Use of Force at Examinations of
Apprehended Persons

The German Geheime Staatspolizei, Gestapo, during its activities in Germany could in certain cases, obtain special permission to administer physical violence when examining accused persons. Save in such cases for which special permission had to be granted, the Geheime Staatspolizei had to comply with the prohibition against administering physical violence.

When the Geheime Staatspolizei, together with the Waffen SS (SD) and the Criminal Police units came to Norway, at the end of April 1940, a complete ban on the use of violence was in effect. As far as I know no torture was committed before the end of the spring of the year 1941.

In the spring of 1941 - approximately at the end of April - the Commander-in-Chief of the Sicherheitspolizei (Public Security police) and head of the SD Norway, Fehlis, SS Chief (then SS Chief Assault Unit Leader), gave the information stated below in Oslo. This statement was given at a conference in his office to which I was summoned in the capacity of reporter for defence measures against inside espionage in Department IV (Politische Polizei, head of which at that time was SS Sturmbannführer Dr. Knab). The statement:

In dealing with certain documents relating to some espionage cases Fehlis had noticed that subsequently obtained information gave a somewhat different picture than earlier proceedings of the most important persons accused. He was aware of
/and could

and could also documentarily verify that I and my collaborators did efficient work. Clearly the exception to the prohibition against the use of force should also be made applicable to Norway. He reserved to himself the right to make such exceptions.

As far as I can remember F e h l i s had gone through documents on the espionage cases against Tønne Winther, Rolv Lea and Sigurd Johansen being processed at this time, and had formed his opinions from these cases. It was correct that Winther and Lea and others of the accused had not told the full truth; in particular they had not confessed at a time convenient for the proceedings.

As far as I can remember F e h l i s hinted that he had the consent of the Reichssicherheitshauptamt (National Security Committee) Berlin, to this. I may, however, be wrong in this, owing to the long lapse of time since the conference took place as well as to my assumption that the said prohibition could not be disregarded without the consent of this Committee. I have no recollection of F e h l i s mentioning anything to the effect that he had had any correspondence with the Committee on this matter. According to F e h l i s the head of said Committee had to be notified on such matters. SS Gruppenführer M ü l l e r (SS Group commander) was head of the Committee in question. In addition to this, the head of Section I (Administration and Legal Affairs) also required to be notified in such matters. I am not now able to recall the name and title of the person in charge, but the final decision in such cases may have rested with him.

At the conference mentioned above I suggested to F e h l i s that exception to the prohibition in question should be

/limited

limited to special circumstances by special provisions. Urged by F e h l i s during the conference I made a draft relative to such special circumstances which draft I submitted to F e h l i s on the spot. I recapitulate herewith, with possible slight differences due to faulty memory, my suggestions:

- 1) It should be perfectly clear that the accused in question has committed serious unlawful acts.
- 2) It should also be perfectly clear that the accused be able to give just the information desired relative to important unlawful activities affecting German military interests.
- 3) Full confidence in the real sense of the word, cannot be placed in statements by "trustees" even if such "Trustees" have hitherto acted in a way to inspire absolute confidence.
- 4) Before any exception be made to said prohibition every other means of interrogation must have proven to be a failure.

It was my suggestion that the decision to use force on accused persons should rest exclusively with the official directly in charge of the case.

F e h l i s agreed to the concrete limitations suggested by me and urged me to proceed accordingly in the future. In addition to this I was told to submit my suggestions in writing to the head of Section I, at the time Regierungsrat M e y e r (Cabinet Advisor), or to Oberregierungsrat K e l l e r (Chief Cabinet Advisor) and also to Regierungsrat Dr. K n a b , head of Section IV. I cannot, however, remember to whom I submitted my presumably handwritten suggestions. I only know that some months later similar orders on the matter were given to the district offices, c/o the commanders, of the Sicherheitspolizei Norway, stating that permission as stated above was to be given under special circumstances and

/only after

only after having obtained written permission to do so.

I am quite sure that at the time in question Oberregierungs-
rat K e l l e r was head of Section I and he might there-
fore be able to substantiate this.

In the spring of 1942 SS Sturmbannführer R e i n h a r d
was head of Section IV of the Sicherheitspolizei, as well
as of the SD Oslo, and consequently my next superior officer.
Soon after assuming his office he introduced a form to be
used for applying for permission to administer torture at
interrogations, which application, under pressing circum-
stances, could be submitted after the procedure had been
carried out. This application form was also to be made valid
for the offices of the BdS and the SD Oslo. F e h l i s
had delegated such matters to R e i n h a r d . As for
the handling of most of the cases my reports were made
verbally to F e h l i s notwithstanding my authority to
deal with such cases, delegated to me by F e h l i s
subject to my own suggestions as to how to act under special
circumstances. At the request of R e i n h a r d my
suggestions were submitted to him in the form of a written
application by using the forms mentioned above adapted to
such cases. F e h l i s authorized the procedure of ad-
ministering blows with a stick or rubber hose, and later on
the use of calf pinchers, which had been tried out with good
results by the Reichssicherheitshauptamt. Finally the use
of cold baths, considered harmless to the accused, was allowed
as a result of years of successful experience by the police-
men on service in France. The assertion that these were
harmless was substantiated by the French Police.

/(Translator's

(Translator's note: The term "Fransösischen Polizei" may refer to German police in France or to the French Police proper.)

I can assert that according to the best of my knowledge the above regulations have in no case been violated but have been complied with as being orders. On the other hand I have in many cases refrained from the use of force and have also ordered torture discontinued, notwithstanding obvious reasons for such procedure. In no routine case can it be proved, as far as I know, that an accused person was subjected to torture for information he was unable to give.

Siegfried F E H M E R (sign.)

Kriminalrat (Criminal advisor)

8.9.1945

SUPPLEMENT:

At the time of the permission given by F e h l i s to disregard the prohibition against torture of accused persons the oberreichsführer H e y d r i c h , was head of the Reichsicherheitshauptamt. He was succeeded by SS Obergruppenführer Kaltenbrunner who will no doubt be able to confirm that the exception to the prohibition against the use of force on accused persons was introduced into occupied areas before the war as well as during the war.

Siegfried F E H M E R (sign.)

8.9.45

Sworn to before me
at Akershus
this 8th day of
September 1945.

Arne W. Brogger (sign.)
Major AUS.