

*ITALIANI CATTIVA GENTE? ANTI-ITALIAN STEREOTYPES AND THE  
OBFUSCATION OF WAR CRIMES IN GERMAN PERPETRATOR NARRATIVES FROM  
THE ITALIAN THEATRE OF WAR<sup>1</sup>*

Abstract: Anti-Italian stereotypes proved central to the defence strategy of German war criminals, such as Albert Kesselring, who were tried in the early post-war period for war-crimes committed in Italy. This article identifies a number of recurring tropes which repeatedly come to the fore in accounts given by Kesselring and other German generals and officers who fought in the Mediterranean theatre, both in the testimonies given during Kesselring's trial, and in later memoirs. These tropes include the castigation of Italians as "traitors", the idea that testimonies by Italians were effectively worthless, false, or at the very least exaggerated, and the equation of innocent women and children with dangerous partisans. It then draws a connection between the use of these anti-Italian stereotypes in an immediate post-war context, where they functioned as key pillars in the construction of the myth of the 'clean Wehrmacht' in Italy, and its subsequent anchoring in German judicial and diplomatic praxis and public discourse up to the present day. Keywords: Kesselring, war crimes, massacres, World War II, Germany, partisans

*Italiani Cattiva Gente? Stereotipi anti-italiani e insabbiamento dei crimini di guerra nelle narrazioni dei responsabili tedeschi nel teatro di guerra italiano*

Gli stereotipi anti-italiani furono un aspetto centrale della strategia difensiva di criminali di guerra tedeschi come Albert Kesselring, che nell'immediato dopoguerra furono processati per crimini di guerra commessi in Italia. Questo articolo individua alcune figure retoriche ricorrenti che emergono ripetutamente nei resoconti di Kesselring e di altri generali e ufficiali tedeschi che avevano combattuto sul fronte mediterraneo, sia nella forma di testimonianze rese durante il Processo Kesselring, sia nella forma di memorie successive. Fra tali figure retoriche ci sono la punizione degli italiani in quanto "traditori", l'idea che le testimonianze rese dagli italiani fossero prive di valore, false o perlomeno esagerate, e l'equivalenza fra donne e bambini innocenti e pericolosi partigiani. L'articolo inoltre traccia un parallelismo fra l'uso di questi stereotipi anti-italiani nel contesto dell'immediato dopoguerra, in cui ebbero un ruolo chiave nella costruzione del mito della "Wehrmacht pulita" in Italia, e il loro conseguente attecchire nella pratica giuridica e diplomatica e nel discorso pubblico fino ai tempi recenti.

Parole chiave: Kesselring, crimini di guerra, stragi, Seconda guerra mondiale, Germania, Resistenza

### *1. Introduction*

Fosse Ardeatine. Sant'Anna di Stazzema. Marzabotto. For Italians, the mere names of these notorious sites of German massacres on Italian soil during the Nazi occupation have become charged with terrible meaning, symbolising the utmost in brutality and atrocity<sup>2</sup>. They are also indicative of that wider phenomenon of 'divided memory' in post-war Italy, in which the officially endorsed myth of the anti-Fascist Resistance, which dominated significant sectors of Italian historiography and public life, coexisted with an opposite myth of the Italian partisans as ultimately responsible for these atrocities, a myth which was not

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<sup>1</sup> I paragrafi 1, 2 e 3 sono stati scritti da Helen Roche; il 4 da Dario Pasquini.

<sup>2</sup> For more on the German occupation and war crimes committed by the *Wehrmacht* and SS in Italy, see e.g. L. KLINKHAMMER, *Zwischen Bündnis und Besatzung. Das nationalsozialistische Deutschland und die Republik von Salò 1943-1945*, Tübingen, Niemayer, 1993; F. ANDRAE, *Auch gegen Frauen und Kinder. Der Krieg der deutschen Wehrmacht gegen die Zivilbevölkerung in Italien 1943-1945*, Munich, Piper, 1995; G. SCHREIBER, *Deutsche Kriegsverbrechen in Italien. Täter, Opfer, Strafverfolgung*, Munich, C. H. Beck, 1998; M. WEDEKIND, *Nationalsozialistische Besatzungs- und Annexionspolitik in Norditalien 1943 bis 1945. Die Operationszonen "Alpenvorland" und "Adriatisches Küstenland"*, Munich, Oldenbourg, 2003; C. GENTILE, *Wehrmacht und Waffen-SS im Partisanenkrieg: Italien 1943-1945*, Paderborn, Schöningh, 2012; P. PEZZINO, *Memory and Massacre: Revisiting Sant'Anna di Stazzema*, Basingstoke, Palgrave Macmillan, 2012.

only fuelled by right-oriented forces but also had roots in the memories of individuals and communities<sup>3</sup>. Indeed, some Italians still believe today that the deaths of thousands of innocent civilians could easily have been prevented, if only the *Resistenza* had refrained from attacking the German troops in any given area, or, once they had taken hostile action, had immediately given themselves up to the enemy, rather than leaving the local population vulnerable to massive reprisals from *Wehrmacht* or SS troops<sup>4</sup>. Thus, while ‘divided memory’ in Germany took on a much more literal form, artificially constructed through the founding political narratives of two competing proto-nations, one on either side of the incipient Iron Curtain, each convinced of the rightness of its own anti-Fascist or anti-Communist stance, in Italy, the politically-tinted contradictions and enmities inherited from the quasi-civil war between anti-Communists and anti-Fascists could cleave whole communities in two<sup>5</sup>.

Furthermore, as part of a policy which aimed above all to prevent *Italian* war criminals from being held to judicial account during the post-war wave of Allied prosecutions, which would have shed light upon atrocities committed by Italian troops in countries such as Abyssinia, Yugoslavia, and Greece, the Italian authorities not only came to an agreement with the Federal Republic that many German war criminals who were guilty of atrocities in Italy should be spared trial or released, but also simply locked away a substantial collection of documents which could otherwise have been used to prove the Italian case against German perpetrators<sup>6</sup>. In this way, the Republic’s founding myth of ‘*Italiani brava gente*’ – the idea that the Italians were fundamentally a good people, endlessly victimised by the ‘evil’ German occupiers, and completely detached from their former alliance with the Axis, could flourish unhindered<sup>7</sup>. The so-called ‘cupboard of

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<sup>3</sup> cf. e.g. G. CONTINI, *La memoria divisa*, Milan, Rizzoli, 1997, and (more generally) J. FOOT, *Italy’s Divided Memory*, Basingstoke, Palgrave Macmillan, 2009. On the hegemonic narrative of the ‘vulgata resistenziale’, see especially S. GUNDLE, *The “Civic Religion” of the Resistance in Postwar Italy*, in «Modern Italy», 5, 2000, pp. 113-32; F. FOCARDI, *La guerra della memoria. La Resistenza nel dibattito politico italiano dal 1945 a oggi*, Bari, Laterza, 2005; K. VON LINGEN, “*Giorni di Gloria*”. *Wiedergeburt der italienischen Nation in der Resistenza*, in *Kriegserfahrung und nationale Identität in Europa nach 1945. Erinnerung, Säuberungsprozesse und nationales Gedächtnis*, ed. by K. VON LINGEN, Paderborn, Schöningh, 2009, pp. 389-408.

<sup>4</sup> On this type of false memory and its ramifications, see A. PORTELLI, *The Order Has Been Carried Out: History, Memory, and Meaning of a Nazi Massacre in Rome*, Basingstoke, Palgrave Macmillan, 2004; also more generally J. FOOT, *Via Rasella, 1944: Memory, Truth, and History*, in «The Historical Journal», 43, 2000, pp. 1173-81. On the difference between individual and collective memory, see A. ASSMANN, *Memory, Individual and Collective*, in *The Oxford Handbook of Contextual Political Analysis*, eds. by R. Goodin and C. Tilly, Oxford, Oxford University Press, 2006, pp. 210-24. On cultural memory, see J. ASSMANN, *Cultural Memory and Early Civilization: Writing, Remembrance, and Political Imagination*, Cambridge, Cambridge University Press, 2011, and A. ASSMANN, *Cultural Memory and Western Civilization: Functions, Media, Archives*, Cambridge, Cambridge University Press, 2012.

<sup>5</sup> On ‘divided memory’ in German history, see e.g. J. HERF, *Divided Memory: The Nazi Past in the Two Germanies*, Cambridge, MA, Harvard University Press, 1997; M. FULBROOK, *German National Identity after the Holocaust*, Cambridge, Polity Press, 1999.

<sup>6</sup> On Italian atrocities, see e.g. L. SANTARELLI, *Muted Violence: Italian War Crimes in Occupied Greece*, in «Journal of Modern Italian Studies», 9, 2004, pp. 280-99; A. DEL BOCA, *Italiani, brava gente? Un mito duro a morire*, Vicenza, Neri Pozza, 2005; on sweeping German crimes under the carpet as a *quid pro quo*, see F. FOCARDI, *La questione della punizione dei criminali di guerra in Italia dopo la fine del secondo conflitto mondiale*, in «Quellen und Forschungen aus den italienischen Archiven und Bibliotheken», 80, 2000, pp. 543-624; M. BATTINI, *The Missing Italian Nuremberg: Cultural Amnesia and Postwar Politics*, Basingstoke, Palgrave Macmillan, 2003; F. FOCARDI, *Criminali di guerra in libertà. Un accordo segreto tra Italia e Repubblica federale tedesca, 1949-1955*, Rome, Carocci, 2008; on the discovery of the cupboard and its ramifications, see e.g. M. FRANZINELLI, *Le stragi nascoste. L’armadio della vergogna: impunità e rimozione dei criminali di guerra nazifascisti 1943-2001*, Milan, Mondadori, 2003; I. INSOLVIBILE, *Archiviazione “definitiva”. La sorte dei fascicoli esteri dopo il rinvenimento dell’armadio della vergogna*, in «Giornale di Storia Contemporanea», 8, 2015, pp. 5-44; *La difficile giustizia. I processi per criminali di guerra tedeschi in Italia*, eds. by M. DE PAOLIS - P. PEZZINO, Rome, Viella, 2016; L. KLINKHAMMER, *Der “Schrank der Schande” und das “Vergessen” eines Bürgerkriegs. Der Untersuchungsausschuss des italienischen Parlaments zur Aufdeckung der Nichtverfolgung von nationalsozialistisch-faschistischen Gewaltverbrechen*, in *Historikerkommissionen und historische Konfliktbewältigung*, eds. by C. CORNELIBEN - P. PEZZINO, Berlin, De Gruyter, 2018, pp. 153-76.

<sup>7</sup> cf. R. GORDON, *The Holocaust in Italian Culture, 1944-2010*, Stanford, Stanford University Press, 2012; F. FOCARDI, *Il cattivo tedesco e il bravo italiano. La rimozione delle colpe della seconda guerra mondiale*, Bari, Laterza, 2013.

shame' in which the cache of incriminating documents was concealed (*l'armadio della vergogna*) was only found in the basement of the Military Prosecutor's Office in Rome in 1994; among other things, it contained a secret dossier compiled by British Intelligence, entitled *Atrocities in Italy*. The hundreds of newly-discovered files were then used to initiate a new wave of trials of German perpetrators in Italy during the late 1990s and early 2000s, the most famous of which was the trial of former SS-officer Erich Priebke in Rome in 1996 for his part in the Fosse Ardeatine massacre<sup>8</sup>.

Meanwhile, the memory of these massacres in Germany is next to non-existent, not least thanks to former *Wehrmacht* officers' incessant peddling of the myth of the "clean" Italian theatre of war (arguably one of the most successful variants of the "clean *Wehrmacht*" legend, since it still exists in many quarters today)<sup>9</sup>. As Kerstin von Lingen's work has shown at great length, the trial of Field Marshal Albert Kesselring in Venice in 1947 by a British military court was crucial to the success and widespread diffusion of this myth. Kesselring was also aided and abetted in his bid to sanitise German atrocities in Italy by the agents of British *Vergangenheitspolitik*, who wished to absolve those *Wehrmacht* generals who were still imprisoned and wrap up the trials as quickly as possible, thereby facilitating West German Rearmament during the early stages of the Cold War at the beginning of the 1950s<sup>10</sup>.

Aided by his devoted counsel, Hans Laternser (one of West Germany's leading advocates), as well as by the testimony of scores of *Wehrmacht* veterans and subordinate officers from the Italian theatre of war, Kesselring crafted and perfected an exculpatory narrative in which the treacherous, untrustworthy Italians (who had perfidiously turned their back on their German ally as soon as the going got tough) joined forces with vindictive gangs of partisan terrorists who necessarily had to be eradicated without mercy. Kesselring's witnesses and former comrades saw the Venice trial as their 'last battle'; a golden opportunity both to clear their name, and to justify their actions in repressing the Italian civilian population. Conditioned and foreshadowed by the brutal annihilation of Bolshevik bandits which had been routinely practised on the Eastern Front, the actions against Italian civilians which Kesselring had ordered and endorsed as Commander-in-Chief of the Mediterranean theatre of war could be construed by these German military men as an unfortunate, but ultimately necessary measure if peace (viz. subjugation) were genuinely to be enforced throughout the Italian peninsula<sup>11</sup>.

The task of this article will be twofold. Firstly, we will identify a number of recurring tropes – namely, anti-Italian stereotypes – which repeatedly come to the fore in the accounts given by Kesselring and other German generals and officers who fought in the Mediterranean theatre, both in the testimonies given during

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<sup>8</sup> On the Priebke case, see e.g. S. HEIN, *Der Fall Priebke und die italienische Strafjustiz*, in «Deutsche Richter-Zeitung», 479, 1996, pp. 476-84; W. LEZL, *Il processo Priebke e il nazismo. Anatomia di un processo*, Rome, Editori Riuniti, 1997; on the later wave of trials more generally, see G. STEINACHER, *Das Massaker der Fosse Ardeatine und die Täterverfolgung. Deutsch-italienische Störfälle von Kappler bis Priebke*, in *Italien, Österreich und die Bundesrepublik Deutschland in Europa. Ein Dreiecksverhältnis in seinen wechselseitigen Beziehungen und Wahrnehmungen von 1945/49 bis zur Gegenwart*, eds. by M. GEHLER - M. GUIOTTO, Vienna, Böhlau, 2012, pp. 291-315.

<sup>9</sup> cf. e.g. K. VON LINGEN, "Resistenza-Mythos" und die Legende vom "Sauberen Krieg an der Südfront". Konstruktion von Kriegserinnerung in Italien und Deutschland 1945-2005, in "Transformationen" der Erinnerungskulturen in Europa nach 1989, eds. by B. FAULENBACH - F.-J. JELICH, Essen, Klartext, 2006, pp. 329-63; on the 'clean Wehrmacht' controversy, see e.g. W. WETTE, *The Wehrmacht: History, Myth, Reality*, Cambridge, MA, Harvard University Press, 2006.

<sup>10</sup> cf. K. VON LINGEN, *Kesselring's Last Battle: War Crimes Trials and Cold War Politics, 1945-1960*, Lawrence, University Press of Kansas, 2009; On *Vergangenheitspolitik* more generally, see N. FREI, *Adenauer's Germany and the Nazi Past: The Politics of Amnesty and Integration*, New York, Columbia University Press, 2002; on the context of West German rearmament see D. CLAY LARGE, *Germans to the Front: West German Rearmament in the Adenauer Era*, Chapel Hill, University of North Carolina Press, 1996; J. LOCKENOUR, *Soldiers as Citizens: Former Wehrmacht Officers in the Federal Republic of Germany, 1945-55*, Lincoln, NE, University of Nebraska Press, 2001; A. SEARLE, *Wehrmacht Generals, West German Society, and the Debate on Rearmament, 1949-59*, Westport, Praeger, 2003; B. O. MANIG, *Die Politik der Ehre: Die Rehabilitierung der Berufssoldaten in der frühen Bundesrepublik*, Göttingen, Wallstein, 2004.

<sup>11</sup> K. VON LINGEN, *Hitler's Military Elite in Italy and the Question of "Decent War"*, in *A Nazi Past: Recasting German Identity in Postwar Europe*, eds. by D. A. MESSENGER - K. PAEHLER, Lexington, University Press of Kentucky, 2015, pp. 169-99.

Kesselring's trial, and in later memoirs. These tropes include the castigation of Italians as "traitors", the idea that testimonies by Italians are effectively worthless, false, or at the very least exaggerated, and the equation of innocent women and children with dangerous partisans. In so doing, we will build in particular upon Kerstin von Lingen's seminal monograph on the Venice trial and its subsequent impact, *Kesselring's Last Battle* (and a number of related articles), and on the work of Joachim Staron, who has analysed the genesis and reception of the massacres at Fosse Ardeatine and Marzabotto in great detail, including relevant war crimes trials<sup>12</sup>. As both von Lingen and Staron have demonstrated conclusively, it was the Kesselring trial *par excellence* which cemented the enduring myth of the 'clean Italian war' in the German popular imagination.

Secondly, we will draw a connection between the use of these anti-Italian stereotypes in an immediate post-war context, where they functioned as key pillars in the construction of this myth, and its subsequent anchoring in German judicial and diplomatic praxis and the German media, even at the beginning of the twenty-first century. As recent works of Italian historiography by scholars such as Paolo Pezzino and Dario Pasquini have argued, it is precisely these recurring stereotypes, and the force of this legend, which seem to have led, at least in part, to the consistent dismissal of war crimes charges against German perpetrators of atrocities in Italy, not only in the immediate post-war period, but even in recent decades<sup>13</sup>. Thus far, only *one* German defendant has ever stood trial in Germany and been convicted for war crimes committed on Italian soil, and the arguments used by German courts to defend their predilection for acquittal often hark back to assumptions rooted in these very stereotypes – a fact which can have important repercussions for Italo-German political relations today.

Therefore, at differing points over the past seventy-five years, these two legends – the idealisation of *Italiani brava gente* on the Italian side, and the negative notion of *Italiani cattiva gente* on the German side – have meshed in ways which often combine to obfuscate the truth of the sheer brutality and horrific violence of German rule during the Nazi occupation of Italy – after all, as Steffen Prauser has noted, the Fosse Ardeatine massacre, with its 335 casualties, was 'the largest reprisal shooting in Western Europe to take place during the Second World War'<sup>14</sup>.

By tracing the fortunes of the German myth of the 'malicious Italian' in this context – a trope which has hitherto received far less attention than the Italian myths of the 'good Italian' and the 'evil German'<sup>15</sup> – we argue that German perpetrator testimonies, initially constructed as part of a judicial defence, and later consolidated in published memoir literature, are still contributing to the shaping of German cultural memory and legal and political action, not only in the immediate post-war era, but even today.

In so doing, we aim not only to make a contribution to the existing scholarship on transnational memory politics and the postwar landscape of international trials, but also to highlight the significance of perpetrators' self-representations and their recourse to negative national stereotypes within this political and legal context<sup>16</sup>. As Kim Christian Priemel and Donald Bloxham have noted, a full historical and socio-

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<sup>12</sup> VON LINGEN, *Kesselring's Last Battle*, cit.; K. VON LINGEN, Soldat bis zum letzten Tag? Generalfeldmarschall Albert Kesselring, in *Karrieren im Nationalsozialismus: Funktionseliten zwischen Mitwirkung und Distanz*, eds. by G. HIRSCHFELD – T. JERSAK, Frankfurt a. M., Campus, 2004, pp. 205-24; J. STARON, *Fosse Ardeatine und Marzabotto: Deutsche Kriegsverbrechen und Resistenza*, Paderborn, Schöningh, 2002.

<sup>13</sup> P. PEZZINO, Il rifiuto della giustizia penale, in *Né eroi, né martiri, soltanto soldati. La divisione "Acqui" a Cefalonia e Corfù settembre 1943*, ed. by C. BREZZI, Bologna, il Mulino, 2014, pp. 283-300; D. PASQUINI, Un'ultima occasione mancata di giustizia. La questione dell'esecuzione delle pene comminate in contumacia dai tribunali militari italiani ai criminali di guerra tedeschi, in *«Italia contemporanea»*, 284, 2017, pp. 168-84.

<sup>14</sup> S. PRAUSER, Mord in Rom? Der Anschlag in der via Rasella und die deutsche Vergeltung in den Fosse Ardeatine im März 1944, in *«Vierteljahrshefte für Zeitgeschichte»*, 50, 2002, pp. 269-301.

<sup>15</sup> cf. C. MOOS, Die "guten" Italiener und die Zeitgeschichte. Zum Problem der Vergangenheitsbewältigung in Italien, in *«Historische Zeitschrift»*, 259, n. 3 (1994), pp. 671-94; C. FOGU, *Italiani brava gente: The Legacy of Fascist Historical Culture on Italian Politics of Memory*, in *The Politics of Memory in Postwar Europe*, eds. by R. N. LEBOW - W. KANSTEINER - C. FOGU, Durham, NC, Duke University Press, 2006, pp. 147-76; GORDON, *Holocaust*, cit.; FOCARDI, *Bravo Italiano*, cit.

<sup>16</sup> On transnational Vergangenheitspolitik, see in particular N. FREI, *Transnationale Vergangenheitspolitik. Der Umgang mit deutschen Kriegsverbrechern in Europa nach dem Zweiten Weltkrieg*, Göttingen, Wallstein, 2006; on the ever-growing interest in smaller proceedings beyond the Nuremberg IMT, the Frankfurt and Auschwitz trials, see e.g. *Atrocities on Trial: Historical Perspectives on the Politics of*

cultural understanding of the processes of transitional justice is necessarily incomplete without a clear comprehension of the communicative practices and narrative constructions which underlie them<sup>17</sup>, and the way in which the IMT and other postwar proceedings functioned – as ‘trials by document’, which framed both prosecution and defence in the idiom of those who committed atrocities rather than those who suffered them – has tended to prioritise the perpetrators’ perspective at the expense of their victims<sup>18</sup>. As we shall see, such problems were particularly acute in the case of the Kesselring trial, in which the defence strategy for the second charge against the former Field Marshal largely rested upon a deliberate recasting of events which was designed at all costs to minimise and deny the reality of Italian suffering at the hands of German troops.

Furthermore, we aim to shed light upon the formative effect of negative national stereotypes over the *longue durée*. As Silvana Patriarca’s work has shown, ever since the age of the Grand Tour, foreign attitudes towards the Italian people have followed an exceptionalist paradigm which has perennially emphasised Italian weakness and political failure (‘vices’ which the Italians have also tended to decry vociferously in themselves); from the turn of the twentieth century onwards, these notions were often reinforced by pseudo-scientific ideas taken from racial theory<sup>19</sup>. Meanwhile, Jens Petersen has also convincingly traced many aspects of Italian anti-Teutonism and German perceptions of the Italian Other back to hostilities between the nascent Italian nation and the Habsburg Empire, as well as to Italy’s chequered performance and vacillatory participation in World War I<sup>20</sup>. Such views were often shared even by Allied officials, who had grave suspicions about the so-called ‘Italian mentality’ and its fundamental unsuitability for war<sup>21</sup> – a factor which also had a role to play in the British military’s conduct of the trials which took place after World War II. While recent articles by Arnd Bauerkämper and Gerald Steinacher have touched upon the importance of stereotypical media representations of the Italians in European political debates and disputes over German war crimes during the 1970s, 1980s and 1990s, the role of negative stereotyping in the immediate post-war period, and its subsequent political effect over the following half-century or more, remains a less well-trodden topic of analysis<sup>22</sup>.

Our investigation will therefore proceed by drawing direct parallels between the anti-Italian rhetoric found in:

- a) tropes prevalent in German military circles during the war itself
- b) exculpatory tropes deployed in court during the immediate post-war period
- c) rehabilitatory tropes deployed in military memoirs from the 1950s, and finally

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Prosecuting War Crimes, eds. by P. HEBERER - J. MATTHÄUS, Lincoln, NE, University of Nebraska Press, 2008; D. PENDAS, Seeking Justice, Finding Law: Nazi Trials in Postwar Europe, in «Journal of Modern History», 81, 2009, pp. 347-68; C. SHARPLES, West Germans and the Nazi Legacy, New York, Routledge, 2012; on the specific problems inherent in prosecuting Wehrmacht officers, see V. G. HÉBERT, Hitler’s Generals on Trial: The Last War Crimes Tribunal at Nuremberg, Lawrence, KS, University of Kansas Press, 2010.

<sup>17</sup> K. C. PRIEMEL, Consigning Justice to History: Transitional Trials after the Second World War, in «The Historical Journal», 56, 2013, pp. 553-81 (599).

<sup>18</sup> D. BLOXHAM, Genocide on Trial: War Crimes Trials and the formation of Holocaust History and Memory, Oxford, Oxford University Press, 2001.

<sup>19</sup> S. PATRIARCA, Italian Vices: Nation and Character from the Risorgimento to the Republic, Cambridge, Cambridge University Press, 2010.

<sup>20</sup> J. PETERSEN, *Das deutschsprachige Italienbild nach 1945*, in «Quellen und Forschungen aus den italienischen Archiven und Bibliotheken», 76, 1996, pp. 455-95, J. PETERSEN, *Italianisierung Deutschlands? “Germanizzazione” dell’Italia? Das Bild des anderen in der jeweiligen Selbstperzeption*, in *Parallele Geschichte? Italien und Deutschland 1945–2000*, eds. by G. E. RUSCONI – H. WOLLER, Berlin, Duncker & Humblot, 2006, pp. 55-69. See also U. DIEDRICH, *Germany’s View of Italy in the New Century: New Challenges and Old Stereotypes*, in «Modern Italy», 15, 2010, pp. 293-305.

<sup>21</sup> G. GRIBAUDI, Bombing and Land War in Italy: Military Strategy, Reactions, and Collective Memory, in *Experience and Memory: The Second World War in Europe*, eds. by J. ECHTERNKAMP - S. MARTENS, New York, Berghahn, 2010, pp. 116-34 (p. 117).

<sup>22</sup> A. BAUERKÄMPER, *Das umkämpfte Gedächtnis. Die Flucht Herbert Kapplers aus Italien 1977 und deutsch-italienische Erinnerungskonflikte*, in «Zeitgeschichte», 39, 2012, pp. 178-204; STEINACHER, *Massaker*, cit.

- d) tropes used to excuse further exonerations of perpetrators in German courts in recent decades, as well as being deployed in more general German public discourse.

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## 2. *Anti-Italian Stereotypes in the Kesselring Trial*

Wehrmacht soldiers tended to arrive in Italy with preconceived ideas about the country's native inhabitants. Those who were previously italophile, or even neutral, generally exhibited some degree of comprehension and compassion for Italian civilians, while those who were already prejudiced through exposure to Nazi ideology, or simply sceptical about Italy's capabilities as an alliance partner, tended to treat them with contempt. Once Italy had turned her back on the Axis alliance and joined forces with the Allies in October 1943, German antipathy towards the Italians as a people of traitors, a 'Lumpenvolk' or 'Schweinevolk', became widespread, with some soldiers even declaring the Italians to be as awful as the Jews<sup>23</sup>. Scholars of German atrocities in Italy, including Paolo Pezzino, Carlo Gentile, and Gerhard Schreiber, have all emphasised racial and ideological factors, alongside the 'trauma of betrayal', as crucially contributing to that devaluation of Italian life which led to the Wehrmacht's use of civilian massacres as a means of revenge and intimidation<sup>24</sup>. This 'fatal prejudice', which led to an average of 165 civilian Italian men, women and children losing their lives every day, was codified in a series of orders issued by Kesselring to troops in the Italian theatre of war, which led to local populations being included as legitimate targets in areas where partisans were active – part of a strategy of terror which bore many of the hallmarks of the brutal war on partisans which had first been initiated on the Eastern Front<sup>25</sup>. Kesselring incited his soldiers to act with the utmost ferocity against Italian civilians, and this insistent command to commit violence and enact inordinate reprisals against the Italian people constituted the substance of the second charge brought against him at the Venice Trial (17 February–6 May 1947) – the first charge concerned his responsibility for the Fosse Ardeatine massacre<sup>26</sup>.

During the trial itself, Kesselring and his defence counsel, Hans Laternser, pursued a strategy which aimed fundamentally to discredit the idea that German forces had ever committed war crimes against Italian civilians – all hostile testimonies by Italian witnesses were summarily dismissed as false, and, where atrocities had taken place, these were deemed to be ultimately the fault of the Italians. Laternser and his witnesses also stressed Kesselring's supposed 'Italophilia', and the 'fairness' with which he was reputed to have conducted the war in Italy, according to British officers and commanders such as Field Marshal Viscount Alexander<sup>27</sup>. At times, even the British Judge Advocate General (who was presiding over the trial) grew restive at the emphasis placed upon this particular form of exculpation, reminding Laternser that witnesses who could testify to Kesselring's devotion to sparing Italian artistic treasures were scarcely relevant to the charge at hand – after all, the former Field Marshal was not being accused of mistreating the whole Italian race<sup>28</sup>.

Nevertheless, this argument – which eventually led to Kesselring's making a highly offensive public statement, following his release, to the effect that the Italian people ought to erect a monument to him for saving the lives of 'millions of Italians'<sup>29</sup> – was inextricably entwined with German prejudices concerning the Italians' 'treacherous' nature. Colonel Richard Halse, the counsel for the prosecution, first made the connection between German atrocities and the Italians' alleged betrayal in his opening speech, citing Kesselring's interrogation by Colonel Alexander Scotland at the London District Cage, in which he had

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<sup>23</sup> K. VON LINGEN, *Soldatenperspektive auf Bündnispartner und Besatzungsherrschaft: Briefe aus Italien, 1943-1945*, in *Schreiben im Krieg, Schreiben vom Krieg. Feldpost im Zeitalter der Weltkriege*, eds. by V. DIDCZUNEIT - J. EBERT - T. JANDER, Essen, Klartext, 2011, pp. 469-80 (pp. 479, 473).

<sup>24</sup> SCHREIBER, *Kriegsverbrechen*, cit., pp. 14, 20-3, 215-17; GENTILE, *Wehrmacht*, cit., p. 116; P. PEZZINO, *The German Military Occupation of Italy and the War against Civilians*, in «Modern Italy», 12, 2007, pp. 173-88 (pp. 175, 182).

<sup>25</sup> Copies of these orders can be found in THE NATIONAL ARCHIVES, Kew (TNA) WO 235/375, and are also discussed at length in VON LINGEN, *Kesselring's Last Battle*, cit.

<sup>26</sup> The trial transcripts can be found in TNA WO 235/367-374 (inclusive). It should be noted that the trials were conducted in English and are cited in the original, while the written depositions have been translated from the original German.

<sup>27</sup> TNA WO 235/374, Day 56 (Defence Closing Address), p. 3.

<sup>28</sup> TNA WO 235/374, Day 54, pp. 29ff.

<sup>29</sup> VON LINGEN, *Kesselring's Last Battle*, cit. pp. 255-8.

stated that these feelings of treacherous abandonment led to ‘a slowly mounting hatred which came to light when Italy, betraying the Axis policy, proclaimed partisan warfare’<sup>30</sup>. In his ‘Freiwillige Aussage - Über den Bandenkrieg in Italien von 1943 bis 1945’, also composed during his sojourn in London, Kesselring expressed himself more forcefully, claiming that:

The primary guilt can be ascribed to the gang-war (*Bandenkrieg*), which was based on the violation of international law, the Italians’ betrayal of the German soldiers, and the resulting poisoned atmosphere, which became ever more pregnant with deceitfulness and ambush. If [one has] already fallen foul of ‘leaders of formations’, then one can imagine the unrestrained raging of human passions which would have caused the number of victims, which was already appreciable, to multiply<sup>31</sup>.

In his own affidavit in support of Kesselring, Generalleutnant Max Simon followed a very similar line of reasoning, making the comparison with Italy’s previous ‘betrayal’ in World War I explicit:

The treacherous conduct of the war by the Italian partisans, which violated international law, had a yet more debilitating effect on the simple German soldier, because it involved the citizens of a state which had indeed been allied with us, which had fought at our side, and which should in fact still have been doing so. For years, the members of this people had been welcomed in Germany with open arms, and it had long been forgotten that Italy had broken faith with us once already. [...] When one considers that the German soldiers [...] even at the front were never safe from the Italian gang-members’ treacherous bullets or their assassins’ daggers, and when one conceives further that on every street, behind every tree and shrub there lurked a partisan sniper, and that the words of the partisans themselves have confirmed that every village was a partisan billet, and when one then comprehends that all this befell in the land of our former allies, one should rather wonder at the patience of the German soldiers during this barbarous war in Italy, and at the Italian partisans who now dare to indict the German soldiers as murders<sup>32</sup>.

Latenser made a similar connection in his summing-up of the defence strategy, stressing Kesselring’s magnanimity towards the Italians despite the fact ‘that they had been a heavy liability as an ally’<sup>33</sup>. All in all, the implication seemed to be that even if the Italians really had been subject to reprisals, these were wholly deserved, given Italy’s treacherous national character, and her unforgivable abandonment of her Axis partner<sup>34</sup>.

Kesselring’s second miso-Italian defence tactic was built even more clearly upon disdain for the Italian character, and involved the tarnishing of the partisans’ reputation at all costs (examples of this can already be noted in the excerpts cited above). In this model, the partisan ‘gangs’ (‘Banden’) were fighting a wholly unlawful campaign, distinguished only by its overwhelming atrocity and criminality, and by the influence of the *Resistenza* over the civilian population in the so-called ‘partisan-infested’ areas, such that any man, woman or child could legitimately be considered a potential partisan, and hence deserving of summary execution by German troops. In his ‘Freiwillige Aussage’, Kesselring explicitly cited the ‘Mediterranean temperament’ (*südländische Temperament*) as the underlying reason for the partisans’ ‘most criminal and perfidious conduct of war’ (*verbrecherischste hinterhältige Kampfführung*) and their accompanying orgies and excesses of violence, justifying the German response to the ‘Bandenkrieg’ as follows:

Almost all of the gang-members wore no insignia, hid their weapons, and unlawfully used German or Fascist uniforms; in short, they did not observe any of the clauses of Article 1 of the Hague Land Warfare Convention, and therefore placed themselves beyond the reach of international law. This uncertainty, having to see a fanatical assassin in every civilian of either gender, and potentially being shot at from every house in the rebel zones, gave the conduct of war against the gangs its particular form and its own laws. [...] Since one did not wish to commit suicide, there

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<sup>30</sup> TNA WO 235/367, Day 2, pp. 2, 6.

<sup>31</sup> TNA WO 235/375, Exhibit 2: Freiwillige Aussage des Kriegsgefangenen LD 1573 Generalfeldmarschall Albert Kesselring. Ueber den Bandenkrieg in ITALIEN von 1943 bis 1945, p. 13.

<sup>32</sup> TNA WO 235/376, Exhibit 73: Affidavit by Generalleutnant Max Simon, 15 January 1947, pp. 4-5, 11.

<sup>33</sup> TNA WO 235/368, Day 10, p. 17.

<sup>34</sup> See further discussion below – such an argument was used by none other than August Stern, the Prosecutor General for Munich, in 2006. Stern cited the Italians’ ‘betrayal’ as a reason to treat Otmar Mühlhauser’s involvement in the execution of more than a dozen Italian high-ranking military prisoners on 24 September 1943 as ‘homicide under aggravating circumstances’ rather than murder.

developed, wholly out of necessity, an opposition suited to this conduct of war through ‘fire safety’ and ‘a battle of annihilation in a state of affect’ which, liberally permitted, apparently and unfortunately overstepped its boundaries<sup>35</sup>.

In this context, and very often when the question of hostage shootings and reprisals was raised in court, Kesselring claimed that it was his «precise knowledge of the Italian mentality» (*genau[e] Kenntnis der italienischen Mentalität*) which had led him to believe that the only way to curb the partisans’ ‘crimes’ (*Verbrechen*) was to rely on the ‘impact’ (*Schockwirkung*) of his orders on the population at large<sup>36</sup>. According to his reasoning, the real blame for the atrocities should therefore be placed upon Badoglio’s appeal to the partisans to attack military and command centres and to stab as many Germans in the back as possible, which he deemed far more ‘bloodthirsty’ (*blutrünstig*)<sup>37</sup>.

Other generals who had been called upon to give evidence in written affidavits also sang from the same hymnsheet; Traugott Herr stressed the brutality and criminal nature of the partisans, while Walter Fries, Claus Kühl, and Fridolin von Senger und Etterlin also decried the unlawful nature of the partisans’ activities under international law (the adjective ‘völkerrechtswidrig’ seems almost to have become a stock epithet in many of these testimonies)<sup>38</sup>. Corroboratory testimonies by witnesses who took their place on the stand itself were even more damning; Veldemar Krumhaar, though acknowledging responsibility for a massacre which had taken place at Borgo Ticino, deemed the partisan attacks as ‘treacherous’ and ‘cowardly’ in extenuation: «In my opinion there was no other means to fight these coward partisan methods [...], and I do not think that our measures were stronger than those which the enemy himself was accustomed to [...]. Of course I am, as a human being, sorry about what happened, but I maintain it was absolutely necessary»<sup>39</sup>.

Often, the inhuman cruelty of the partisans’ treatment of German soldiers was emphasised as a counterweight to Italian accusations – as exemplified by testimony from Ernst Zolling, Kesselring’s former intelligence officer:

Wounded soldiers were mutilated. Some parts of their bodies were just crushed, for instance, arms or legs or anything, and eyes were gouged out and noses and ears were cut. Wounded soldiers were burnt with petrol and then later burnt to death. Red Cross vehicles, clearly marked with a red cross, were attacked, shot at, and later burnt<sup>40</sup>.

Kesselring himself waxed even more lyrical on this theme during his cross-examination by Laternser:

I have read proclamations issued by local partisan leaders; these proclamations said the following: ‘Italians, you have been trained for generations in ambush warfare. Show it now that you became masters of this style and kill the Germans who are on their way to destruction anyway.’ I said already that no legal conditions existed in partisan warfare. I was deeply moved when I saw those photos which were put in as exhibits to the court a day or two ago. I am only very sorry that I myself am not in a position to furnish the court with photos out of my collection of documents, photos which show how my own soldiers had been treated, tortured and massacred. I shall try to give a description quite briefly about it. I only want to say that members of the forces under my command were killed from the very top – from supreme commanders down to Red Cross sisters. The Red Cross sign, either on the dresses of the sisters or on the lorries, were no protection at all. For instance one of my foremost surgeons, while he was trying to help an Italian, was shot in the most criminal and low manner. My soldiers were ambushed; they were hunted; they were burned – the wounded soldiers in the Red Cross ambulances were burned; their bodies were nailed to the window frames, their eyes were struck out, their noses and ears were cut and also their sexual organs; they were put into barrels which were filled with water and afterwards machine-gunned, and last but not least in Pisa as a sign of gratitude that we supplied the children with milk the wells were poisoned<sup>41</sup>.

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<sup>35</sup> TNA WO 235/375, Exhibit 2, pp. 3-4.

<sup>36</sup> TNA WO 235/375, Exhibit 2, p. 6; cf. e.g. TNA WO 235/367, Day 2, p. 19; TNA WO 235/369, Day 17, p. 22.

<sup>37</sup> TNA WO 235/375, Exhibit 2, p. 8: ‘Assalite commandi e piccoli centri militari! Uccidete i Germanici alle spalle, in modo da sfuggire alle reazione per poterne uccidere degli altri!’

<sup>38</sup> TNA WO 235/375, Exhibit 56 (Traugott Herr, 7 February 1947); TNA WO 235/376, Exhibit 83 (Claus Kühl, 12 October 1946), Exhibit 88 (Walter Fries, 25 September 1946), Exhibit 96 (Fridolin von Senger und Etterlin, 9 June 1946). See also Max Simon’s affidavit cited above (n. 32).

<sup>39</sup> TNA WO 235/368, Day 8, pp. 10-11.

<sup>40</sup> TNA WO 235/371, Day 36, pp. 11-12. In their testimonies on the witness stand, generals Traugott Herr and Joachim Lemelsen also attributed mutilations and violence to the partisans, as well as looting (TNA WO 235/373, Day 46, p. 19; Day 47, p. 27).

<sup>41</sup> TNA WO 235/368, Day 13, p. 15.

The idea that the harshest measures were both necessary and justified in dealing with such treacherous, unlawful, or simply bestial behaviour also reinforced Kesselring's contention that the Italian civilian population at large had to be considered as partisans:

In the partisan occupied areas we can say that almost the whole population was serving the partisans and helped them. [...] I had to assume that the whole population were somehow concerned with partisan activities or were mixed up in some way or another [...]. 'For the German soldier who was killed or ambushed or shot dead it really did not matter very much whether he was shot dead by a partisan who did this voluntarily or whether it was a partisan who acted under force [...]'<sup>42</sup>.

As 'Freischärler', francs-tireurs, any men, women and children who happened to inhabit the so-called 'partisan-occupied' or 'partisan-infested' areas of Italy were considered by Kesselring and his subordinates to be utterly undeserving of humane treatment. Thus, anti-Italian stereotypes of treachery and criminality, prevalent already at the time of the atrocities, were subsequently presented as a legitimate juridical excuse for the indiscriminate murder of Italian civilians.

It is in this context that we come to the most widespread miso-Italian defence strategy of all – the systematic discrediting of testimony by every single Italian witness for the prosecution. Kesselring had already begun to call the credibility of the Italian version of events into question in the two affidavits which he put before the court in writing, claiming in his deposition on the partisan war that any such testimonies should be considered untrustworthy, since «in the matter of the itemisation of the vengeful atrocities of which I am accused, I deem a corrective influence by former gang-members to be not impossible»<sup>43</sup>. In his 'Freiwillige Aussage über die im Operationsgebiete der Heeresgruppe C vorgekommenen Greuel im Kampf gegen die italienischen Banden von 1943 bis 1945', the former Field Marshal developed this theme at far greater length:

It was *not* the case, that on one side there would only have been devils, and on the other side only angels. The connections between the gangs and the population can only be reconstructed from the transcripts in individual cases by those who knew; the individual case, removed from the framework of the proceedings as a whole, has a different impact, whether willed or not, than it had in reality, and no limits are set to the colourful descriptions of the individual witnesses. [...] Guardistallo will be addressed by me as an insidious attack from a hamlet on a troop caught head-on [...] by irregulars who were not identified as soldiers. Even according to the one-sided depiction, one must see the inhabitants of the hamlet as in some way involved in the battle; it doesn't speak against this view that the 'peaceful inhabitants' were shot in their beds; quite the contrary, it even speaks for it! Which of the Italians would have peacefully gone to sleep after agitating hours of battle in a village close to the front and, in June, slept until 5.30 in the morning, as if absolutely nothing had happened? As well as I have come to know the Italians, none of them would have done such a thing<sup>44</sup>!

Throughout this document, every instance of atrocity to which Kesselring was given the opportunity to respond is dismissed as in some way incredible, and an implicit distinction is repeatedly set up between the veracity and honour of his officers, who would supposedly have reported any war crimes to him had they taken place, and the allegedly false reports of actual atrocity. Once again, the generals, prompted by Latenser, sang the same tune as their former commander, with Lemelsen claiming that 'based on all our experiences with the Italians, the testimonies of the mayors or the witnesses from the population are not always 100% trustworthy'<sup>45</sup>, and Fries asserting that «it was known to everyone in the units fighting in Italy that at every tiniest opportunity, and in very many cases without cause or under false accusation, grievances were brought against soldiers or units of the German Wehrmacht by the Italian civilian population»<sup>46</sup>.

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<sup>42</sup> TNA WO 235/368, Day 13, p. 16. For further examples of this attitude, see TNA WO 235/369, Day 15, p. 7; Day 21, pp. 2-3; also TNA WO 235/374, Day 54, p. 6 (testimony by Peter Edward Crasemann).

<sup>43</sup> TNA WO 235/375, Exhibit 2, p. 13.

<sup>44</sup> TNA WO 235/375, Exhibit 3: Freiwillige Aussage des Kriegsgefangenen LD 1593 Generalfeldmarschall Albert Kesselring über die im Operationsgebiet der Heeresgruppe C vorgekommenen Greuel im Kampf gegen die italienischen Banden von 1943 bis 1945, pp. 1, 3.

<sup>45</sup> TNA WO 235/376, Exhibit 82, Joachim Lemelsen affidavit, 26 February 1946, p. 5.

<sup>46</sup> TNA WO 235/376, Exhibit 88, p. 2.

This defence strategy was exemplified *par excellence* in Laternser's wholesale dismissal of an entire tranche of evidence against Kesselring presented by the prosecution, the so-called 'sergeant affidavits', reports which had been put together from numerous Italian witness testimonies by former Special Branch officers charged with investigating German atrocities immediately after the war. Laternser formally objected to the presentation of every single one of these sources, claiming that they represented secondary evidence of such a minor and flawed quality that they should not be admitted at all:

By only perusing these reports you will find a number of mistakes. The first reason is they do not show if and how, if it was, taken into consideration that *the memory of Italian witnesses concerning very exciting incidents is strongly influenced by their very vivid temperament*; (b) that the witnesses are now, of course, apt to consider those persons who were involved into a fight with the German troops and who were killed in that fight as innocent victims; (c) that Italian witnesses who could give good evidence in favour of German troops are still under heavy pressure because they must fear measures by their former partisans and the supporters of those partisans.<sup>47</sup>

Italian witnesses on the stand were also routinely dismissed as fabricators and fantasists, such as Mario Piola, one of the witnesses to the Borgo Ticino massacre<sup>48</sup>, while German witnesses repeatedly stressed their incredulity concerning Italian accounts of atrocities (as exemplified by Zolling, who claimed that he had always considered Italian reports to be exaggerated and awash with superlatives) – or shifted the blame, averring that the true authors of the atrocities were the partisans themselves<sup>49</sup>. In his summing-up of the defence strategy, Laternser claimed outright that «many of these happenings [i.e. massacres] simply did not take place. They are pure fabrications or a very gross exaggeration of something which might have happened».<sup>50</sup> When Kesselring himself took the stand, he repeatedly recast possible reprisal actions as outright 'battles' with partisans in which citizens might legitimately have been killed, dismissing the contents of the affidavits as a product of the 'wealth of fantasy' possessed by the Italian people<sup>51</sup> – in one instance, he even went so far as to claim that «as this case progresses we shall be able to prove that many atrocities of the vilest type were just made up altogether [...]. It is an invention, nothing else»<sup>52</sup>. At times, the Judge Advocate General clearly became impatient with this constant obfuscation, but there was no doubt that it formed a crucial plank in Laternser's overall strategy, and one with which he expected to elicit some degree of sympathy. In his closing address, Laternser rehearsed the same complaints again at length, repeatedly ascribing accounts by witnesses from sites of war crimes such as Padulivo, Cavrillia, and Rifredo and Castello as mere figments of the 'fanciful' (*phantasievoll*) Italian imagination<sup>53</sup>:

It is known to every German soldier who has fought in Italy that due to its lively temperament the Italian population, even if animated by the best will in the world, tends to give over-exuberantly imaginative reports which stand in no relation to the sober truth. All German military commanders in Italy know how such reports should be valued. If now, after the end of the war, the Italian population gives all kinds of reports about the atrocities of the German troops, these reports can be coloured with such fantasy that they should plainly not be accepted. Rather, they require a most exhaustive scrutiny<sup>54</sup>.

In sum, from the perspective of the defence, no Italian testimonies could be admitted to possess any worth whatsoever, when placed alongside the 'honourable' word of a German officer. In the case of the Fosse Ardeatine massacre, moreover, any Italian suspected of having committed any act of resistance or crime whatsoever was considered automatically 'worthy of death'. Although Laternser's appeal to mutual perceptions of Italian treachery and criminality did not prevent Kesselring's initially being given the death-sentence, it seems that when his sentence was later commuted to life imprisonment in June 1947, his

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<sup>47</sup> TNA WO 235/367, Day 7, pp. 3-4 (emphasis mine).

<sup>48</sup> TNA WO 235/368, Day 8, cross-examination of Veldemar Krumhaar, p. 12; cross-examination of Mario Piola, p. 24.

<sup>49</sup> TNA WO 235/371, Day 35, p. 15; TNA WO 235/373, Day 48, pp. 6-8.

<sup>50</sup> TNA WO 235/368, Day 14, p. 19.

<sup>51</sup> e.g. TNA WO 235/369, Day 19, p. 9.

<sup>52</sup> TNA WO 235/369, Day 15, p. 18.

<sup>53</sup> H. LATERNSE, *Verteidigung deutscher Soldaten. Plädoyers vor alliierten Gerichten*, Bonn, Rolf Bohnemeier, 1950, pp. 92, 94, 96 (English version: TNA WO 235/364, Day 56).

<sup>54</sup> *Ivi*, p. 91. Laternser also used similar arguments in his appeal for the revision of Kesselring's death sentence (TNA FO 1060/260, petition dated 26 March 1949).

arguments regarding the ‘increasingly intimate connection between the civilian population and the fighting’, as well as the idea that ‘the partisans were themselves undoubtedly guilty of acts of illegitimate warfare which were imperilling the retreat of the German forces’, were put forward by the Judge Advocate General as extenuating circumstances which might justify the change in verdict<sup>55</sup>. We might therefore conclude that even Latenser’s British interlocutors were not wholly unconvinced by some of the defence’s anti-Italian insinuations.

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### 3. Recurrence of Anti-Italian Tropes in Postwar Military Memoirs

As Kerstin von Lingen and Joachim Staron have persuasively argued, it was precisely this defence strategy, used to such successful effect in Kesselring’s trial, that was instrumental in propagating the myth of the ‘clean Wehrmacht in Italy’, not only among veterans and their associations, but also among the German public at large<sup>56</sup>. Certainly, such arguments formed a crucial component of the campaign for Kesselring’s eventual release from the British prison for war-criminals at Werl: «In the context of the escalating Cold War and given the security policy aim of incorporating West Germany into a military alliance such as the EDC [or] NATO, London considered that releasing a relatively small number of German military icons from the last war was a lesser evil than having to dispense with the whole of West Germany as an ally in a future war»<sup>57</sup>. The nexus of ideas associated with the ‘clean Italian war’ also formed part of a wider set of exculpatory strategies deployed by former Wehrmacht veterans, ranging from the concept of ‘Vorwärtsverteidigung’ (pre-emptive defence) which had first been used as a defence by the generals who had been tried at Nuremberg, or the self-exonerating war histories commissioned from Wehrmacht generals at the instigation of Franz Halder and the U.S. ‘Historical Division’, to a more widespread discourse of victimisation, in which the Wehrmacht as an institution was portrayed as merely having been subject to cruel ‘misuse’ by the Nazi regime, and hence wholly innocent of all or any war crimes ascribed to it by the high-handed proponents of ‘victors’ justice’<sup>58</sup>.

From this perspective, the memoirs produced by veterans – including those by Kesselring himself, and by Siegfried Westphal, his former chief of staff – played a key part in cementing these myths<sup>59</sup>. The publication in 1950 of Latenser’s collected defence pleas before Allied courts, including the plea from the

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<sup>55</sup> TNA LCO 53/91, Cipher Telegram from General Harding, 29 June 1947; TNA WO 235/366, letter from J.A.G., 23 June 1947.

<sup>56</sup> cf. e.g. VON LINGEN, *Kesselring’s Last Battle*, cit., pp. 100, 127; STARON, *Kriegsverbrechen*, cit., pp. 20, 23, 233, 370.

<sup>57</sup> VON LINGEN, *Kesselring’s Last Battle*, cit., p. 5. According to von Lingen, even Winston Churchill himself had intervened in Kesselring’s favour.

<sup>58</sup> cf. M. MESSERSCHMIDT, Vorwärtsverteidigung. Die “Denkschrift der Generäle” für den Nürnberger Gerichtshof, in *Vernichtungskrieg. Verbrechen der Wehrmacht 1941-1944*, eds. by H. HEER - K. NAUMANN, Hamburg, Hamburger Edition, 1995, pp. 531-50; B. WEGNER, Erschriebene Siege. Franz Halder, die “Historical Division” und die Rekonstruktion des Zweiten Weltkrieges im Geiste des deutschen Generalstabes, in *Politischer Wandel, organisierte Gewalt und nationale Sicherheit. Beiträge zur neueren Geschichte Deutschlands und Frankreichs*, eds. by E. W. HANSEN - G. SCHREIBER - B. WEGNER, Munich, Oldenbourg, 1995, pp. 287-302; J. ECHTERNKAMP, Mit dem Krieg seinen Frieden schließen – Wehrmacht und Weltkrieg in der Veteranenkultur 1945-1960, in *Von der Kriegskultur zur Friedenskultur? Zu Mentalitätswechsel in Deutschland seit 1945*, ed. by T. KÜHNE, Münster, LIT, 2000, pp. 78-93; T. KÜHNE, Die Viktimisierungsfälle. Wehrmachtverbrechen, Geschichtswissenschaft und symbolische Ordnung des Militärs, in *Der Krieg in der Nachkriegszeit. Der Zweite Weltkrieg in Politik und Gesellschaft der Bundesrepublik*, eds. by M. T. GREVEN - O. VON WROCHEM, Opladen, Leske + Budrich, 2000, pp. 183-96; W. WETTE, Das Bild der Wehrmacht-Elite nach 1945, in *Hitlers militärische Elite*, ed. by G. R. UEBERSCHAR, Darmstadt, WBG, 2011, pp. 578-93.

<sup>59</sup> cf. O. VON WROCHEM, *Erich von Manstein. Vernichtungskrieg und Geschichtspolitik*, Paderborn, Schöningh, 2006, pp. 282, 289, on the importance of Wehrmacht memoirs for shaping public perceptions during this period; also VON LINGEN, *Kesselring’s Last Battle*, cit., pp. 267, 280-2 and STARON, *Kriegsverbrechen*, cit., pp. 230-1, on the dissemination and reception of Kesselring’s memoirs; see p. 334, for these being cited as trustworthy evidence for the ‘clean war in Italy’ thesis even today.

Kesselring trial, under the title *Verteidigung deutscher Soldaten*, also had a significant role to play, since these were deliberately published in order to put pressure on Bonn and pedal the ‘Kesselring myth’<sup>60</sup>.

In their memoirs, both Kesselring and Westphal sited their critique of Italian vices during 1943-45 within a broader portrait of Italian military incompetence, often framed in racial terms<sup>61</sup>. Thus, Kesselring once again harped upon the degeneracy of the Italians’ supposed ‘Mediterranean character’ (*südländischer Charakter*), which left them inherently incapable of measuring up to German military standards, even if they could not be considered entirely ‘inferior in all respects’ (*minderwertig in Bausch und Bogen*)<sup>62</sup>: «The Italian soldier was never truly a soldier, heart and soul. It is possible, that as a northerner of a different race, I have applied a false standard, but the outcome has shown that my opinion was right. [...] The concept of ‘total mobilisation’ was not part of the Italian racial character»<sup>63</sup>.

Westphal also claimed that the Italian commanders «knew very well that their soldiers were scarcely fighting in earnest any more», decrying the treachery of the Italian establishment and the ‘ever more poisonous atmosphere’ which existed between the Axis partners, even before Italy’s wholesale defection from the alliance<sup>64</sup>.

Kesselring’s accusations of Italian cowardice and corruption throughout his description of his experiences in the Mediterranean theatre were even more damning:

As previously discussed, Italy entered the war against Germany’s will. The German army, navy and airforce were requested to provide support. They fought and fought for Italy’s vital interests. The German death toll in Africa, Tunisia, Sicily and southern Italy was monstrous. The numerically far superior Italian armed forces – almost without exception – fought far less hard; sometimes they held back conspicuously. This was tolerated in view of Italian friendship. Things changed once Italy, with full support from the Allies, proclaimed the ‘partisan war’, along with the rejection of the Axis. In its origin and in its execution, it was a violation of international law, and turned the former brotherhood-in-arms into the most brutal murder of former allies<sup>65</sup>.

Kesselring’s depictions of unlawful partisan behaviour and general Italian treacherousness also followed very similar lines to those delineated at the trial – this time boiled down to their essentials, and clearly designed for popular consumption in a Cold War context:

Even when one considers all of the exaggerations and fantastic ideas which characterise the Italian race, as well as the ongoing pressure which was exerted by the earlier gangs, which were mostly Communist, one must admit that unlawful and despicable deeds occurred on the German side too. On the other hand, however, it is certain that convincing proof of the guilt of German soldiers was only adduced in a very few exceptional cases. The excesses and atrocities which occurred should be equally ascribed to the gangs, the neo-fascist organisations, and groups of German deserters, while – if any – only the smallest proportion can be attributed to German formations. Perhaps some of these incidents can also be ascribed to dispersed troops who had overstepped the prescribed measure of self-help. Most of the Italian court-cases which have come to trial in the meantime have shown that the witness testimonies were either untrue or unsparingly fanciful, so that they should be accorded no evidentiary value. In part, it became clear that the atrocities could be ascribed to neo-fascist formations (e.g. Brigata Nera) or criminal Italian elements in German uniform<sup>66</sup>.

In effect, Kesselring’s account of the ‘Bandenkrieg’ presented an ideal opportunity for gaslighting an entire nation, carefully constructing an image of methodical, organised, considerate German occupiers

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<sup>60</sup> VON LINGEN, Kesselring’s Last Battle, cit., p. 196.

<sup>61</sup> On the genre of Wehrmacht memoirs more generally, see e.g. G. BREIT, *Das Staats- und Gesellschaftsbild deutscher Generale beider Weltkriege im Spiegel ihrer Memoiren*, Boppard am Rhein, Boldt, 1973; also F. GESTERNBERGER, *Strategische Erinnerungen. Die Memoiren deutscher Offiziere, in Vernichtungskrieg. Verbrechen der Wehrmacht 1941-1944*, eds. by H. HEER - K. NAUMANN, Hamburg, Hamburger Edition, 1996, pp. 620-9.

<sup>62</sup> A. KESSELRING, *Soldat bis zum letzten Tag*, Bonn, Athenäum, 1953, pp. 143-4.

<sup>63</sup> *Ivi*, pp. 145, 150.

<sup>64</sup> S. WESTPHAL, *Erinnerungen*, Mainz, Hase & Koehler, 1975, pp. 202-21. It is interesting to note that this version of Westphal’s memoirs from the 1970s is even more virulently anti-Italian in its rhetoric than the earlier version, which was published in Bonn in 1952 under the title *Heer in Fesseln: Aus den Papieren des Stabschefs von Rommel, Kesselring und Rundstedt*.

<sup>65</sup> KESSELRING, *Soldat*, cit., p. 323.

<sup>66</sup> *Ivi*, pp. 335, 442.

which contrasted directly with their Italian antithesis. References to the ‘Mediterranean temperament’ (*südländische Temperament*) abounded here also, as did accusations that the partisans’ actions had violated international law (*Völkerrechtswidrigkeit*), and catalogues of the brutalities and atrocities which they had allegedly committed<sup>67</sup>. Much of this depiction was lifted directly from testimony which Kesselring had used as part of the Venice proceedings, with the important caveat that any reader who happened to be unaware of the exact charges which had been levelled at Kesselring at Venice might be excused for supposing that no massacres by German soldiers had ever taken place, and that the harsh measures which Kesselring had enforced against the ‘gangs’ were wholly justified. Westphal’s memoirs contributed still further to this conspiracy of silence by barely mentioning the ‘Bandenkrieg’ in one fleeting sentence: «Meanwhile, the Allies had [...] unleashed a partisan war that violated international law, and which necessarily led to grave excesses and atrocities on both sides»<sup>68</sup>.

Small wonder, then, that the idea that the Wehrmacht had committed atrocities in Italy went unnoticed or was easily expunged from German collective memory – and vested interests, not least among Allied proponents of Rearmament, were to ensure that the situation would remain unchanged for many decades. As Lutz Klinkhammer and Filippo Focardi have shown, attitudes towards the Italian war in Germany followed a similar pattern throughout much of the Federal Republic’s history, and they have also identified Kesselring’s memoirs as an important factor in disseminating anti-Italian attitudes to reparations during this period. Letters to the editor in German daily papers even in recent years have contained a plethora of contributions in which Italian partisans were condemned as ‘treacherous snipers’ (*heimtückische Heckenschützen*), and, as Joachim Staron has noted, disparagement of the *Resistenza* and a hostile attitude towards the Italian point of view has long been rife, even in newspaper reportage<sup>69</sup>. Kesselring’s arguments concerning the partisan actions’ ‘violation of international law’ (*Völkerrechtswidrigkeit*), and the idea that the frontline fighting (*Frontkampf*) and the ‘gang war’ (*Bandenkrieg*) alike had been purely military operations, were unquestioningly absorbed into research in military and social history, as well as being imbibed more generally by the German public<sup>70</sup>. When it came to the question of reparations for German war crimes in Italy, German commentators were incensed by the idea that the treacherous and cunning former partisans might receive millions of Deutschmarks in ‘reward’: articles with titles such as *Hypercompensation, 40 Million Deutschmarks for Partisans* were published in an attempt to rouse German public opinion. Officials in the Federal Ministry of Finance even used arguments which can be directly traced back to Kesselring’s defence rhetoric in their statements denying Italian applicants any financial recompense, as in this example from the ‘Application for Reparations by the Commission of the Civilian Victims of War from Sant’Anna di Stazzema’ (*Gesuch des Komitees der zivilen Kriegsoffer von Sant’Anna di Stazzema um Entschädigung*): «We are probably dealing here with a case that concerns the general conduct of war, and not with criminal elements of persecution [...], so that on these grounds alone there should arise no possibility of assistance by means of reparations»<sup>71</sup>.

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#### 4 Further Repercussions: Anti-Italian Prejudice in German Jurisprudence, Diplomacy and the Media

However, it was in the courtroom that anti-Italian stereotypes were to have the most detrimental effect on justice and international relations. Paolo Pezzino has argued that German jurisprudence regarding Nazi war crimes has shown a «particular reluctance to condemn», often by making use of judicial ‘sophistry’ whenever the victims were Italian<sup>72</sup>. On several occasions, German judges qualified those killings committed during massacres perpetrated against Italians as ‘non-aggravated homicides’<sup>73</sup>, as allegedly there

<sup>67</sup> *Ivi*, pp. 325-336.

<sup>68</sup> WESTPHAL, *Erinnerungen*, cit., p. 260.

<sup>69</sup> L. KLINKHAMMER - F. FOCARDI, Wiedergutmachung für Partisanen? Das deutsch-italienische Globalabkommen von 1961, in, Grenzen der Wiedergutmachung. Die Entschädigung für NS-Verfolgte in West- und Osteuropa 1945–2000, eds. by H. G. HOCKERTS - C. MOISEL - T. WINSTEL, Göttingen, Wallstein, 2006, pp. 458-512; STARON, *Kriegsverbrechen*, cit., p. 366.

<sup>70</sup> ANDRAE, *Krieg*, cit., p. 239.

<sup>71</sup> Klinkhammer - Focardi, cit., pp. 496-8.

<sup>72</sup> PEZZINO, *Il rifiuto*, cit., pp. 293, 299.

<sup>73</sup> M. DE PAOLIS, La questione giuridica di Cefalonia nella giurisprudenza tedesca e italiana, in *Né eroi, né martiri, soltanto soldati. La divisione “Acqui” a Cefalonia e Corfù settembre 1943*, ed. by C. BREZZI, Bologna, il Mulino, 2014, p. 310.

were no elements of intentional cruelty involved in these crimes<sup>74</sup>. German courts also often omitted to take into consideration reticent or contradictory attitudes within the testimonies of the defendants<sup>75</sup>, or rejected or ignored Italian testimonies. Moreover, German sentences regarding Nazi war crimes in Italy have often been demonstrably influenced by negative prejudices concerning Italian soldiers, or Italy's assumed betrayal of Germany<sup>76</sup>. In this connection, Marco De Paolis has demonstrated that the «way of reasoning» behind many of these sentences was influenced by «logical vice and erroneous historical judgement», such as the persistent assumption that soldiers were obliged to fulfil the orders they had received, even if these were criminal, or the justification, used by many defendants, according to which participation in the massacres was necessary in order to avoid reprisals from superiors in the form of summary shootings. Such misleading evaluations have proved particularly persistent, and are evident even in recent German trials, although Italian jurisprudence had abandoned similar interpretations long before<sup>77</sup>.

The same applies to the German tribunals' consistent tendency to judge soldiers and lower-ranking officials much more leniently than Italian courts<sup>78</sup>. Echoes of the afore-mentioned German juridical prejudice regarding Nazi crimes in Italy can be found in some of the recent judgements regarding whether or not to grant the implementation in Germany of Italian *in absentia*-sentences against Nazi war criminals. Just to take one example, we will consider the case of a 2013 'Decreto', which lists the grounds for the rejection of the implementation in Germany of an Italian life-sentence against Wilhelm Kusterer – one of the perpetrators of the massacre of Marzabotto. The relevant decision describes the massacre as an «action of revenge against the partisans in which at least 600 civilians were killed»<sup>79</sup>, and only hints at the gravity of Kusterer's crimes, noting that most of the victims were women, children and old people. In the text of the 'Decreto', the judges raise doubts about how effectively Kusterer's 'minimal rights' had been respected by the Italian justice system during his trial. For example, they argue that:

[...] it would have been necessary not only that the condemned person [Kusterer] had appointed and delegated the solicitor at the beginning of the trial [before the Military Tribunal of La Spezia, in which he was acquitted,] but also that this appointment was given or maintained after receiving notice of the date of the hearing before the Military Court of Appeal of Rome<sup>80</sup>.

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<sup>74</sup> PEZZINO, *Il rifiuto*, cit., p. 299.

<sup>75</sup> PEZZINO, *Il rifiuto*, cit., pp. 298.

<sup>76</sup> DE PAOLIS 2014, *La questione giuridica*, cit., pp. 309, 311; PEZZINO, *Il rifiuto*, p. 286.

<sup>77</sup> DE PAOLIS 2014, *La questione giuridica*, cit., pp. 313-16.

<sup>78</sup> *Ivi*, pp. 319-320. More recently, a new, opposite trend seems to be developing. In 2016, the former non-commissioned SS officer Oskar Gröning had his condemnation confirmed by the German *Bundesgerichtshof* for his mere role in the Auschwitz concentration camp, even without any evidence of his responsibility in specific crimes needing to be proved. A precedent was the condemnation of John Demjanuk in 2011 by the Tribunal of Munich for his role as assistant to the SS in the Sobibor extermination camp. Demjanuk died before a final verdict was delivered.

<sup>79</sup> 'Un'azione di vendetta contro i partigiani nella quale furono uccisi non meno di 800 civili', Court of Appeal, Karlsruhe, Ordinance 12 August 2013, written by Judges Karcher (President) and Guthmann and Boehm (Judges), current ARCHIVE OF THE MILITARY PROSECUTOR'S OFFICE, VERONA (AMPV). Unfortunately, the author only had access to the very poor German official translation from German into Italian which was sent to the Italian authorities.

<sup>80</sup> Ordinance 12 August 2013, AMPV. It should be noted that recently the *Bundesverfassungsgericht*, in case "R" (a US citizen condemned *in absentia* by Italian justice), ruled that the procedures used in Italian tribunals for *in absentia* trials that took place before 2014 are against the general principles of law, see N. CANESTRINI, *Dalla Corte Costituzionale tedesca un limite alla penetrazione dell'ordinamento comunitario negli stati nazionali?*, in «Cassazione penale», 2016, n. 4, pp. 1748-1751. Furthermore, since 1985, Italy has been repeatedly condemned for "violation of the right to a fair trial, as provided by article 6 of the European Convention on human rights, as interpreted by the European Court of Human rights" – on the *in absentia* trials, see N. CANESTRINI, *Quousque tandem abutere, Catilina patientia nostra? Note a margine sul processo contumaciale italiano visto da Strasburgo, alla luce di Huzuneau c. Italy (CEDU, 1 settembre 2016)*, in «Giurisprudenza penale web», 2016, 11, pp. 1-11, <http://www.giurisprudenzapenale.com/wp-content/uploads/2016/11/Scarica-il-contributo-1.pdf>, accessed 14 September 2018.

However, the fundamental reasons for the Karlsruhe Court of Appeal's dismissal of the Italian sentence against Kusterer depended on the fact that Italy and Germany had not introduced a number of supranational norms into their own system of law. In particular, Italy had not ratified the additional Protocol to the Convention on the Transfer of Sentenced Persons (18 December 1997), while Germany had adopted neither the Framework Decision of the European Council on the mutual recognition of judgments in criminal matters (27 November 2008), nor the Framework Decision on the European arrest warrant (13 June 2002). Both of these Framework Decisions were not directly enforceable according to the "Decreto". The Court then decided to fill the assumed gap in the law by drawing on articles 67-69 of the Convention implementing the Schengen Agreement (19 June 1990). These articles regulate cases in which a sentenced person has avoided the enforcement of a penalty 'by escaping to the national's own country'. At this point, the draftsmen of the "Decreto" denied that Kusterer had escaped to Germany, because he had returned to his homeland decades before his trial in Italy had begun, and therefore refused the Italian application for the implementation of the sentence in Germany, despite the Tribunal of Karlsruhe having accepted it during the first stage of the proceedings<sup>81</sup>.

Another recent example of the afore-mentioned German juridical prejudice regarding Nazi crimes in Italy can be found in the dismissal in 2006 of preliminary proceedings against Otmar Mühlhauser, who was charged with commanding the firing squad which executed Italian general Antonio Gandin on 23 September 1943 on the island of Cephalonia. According to the General Prosecutor of Munich, August Stern, the shooting had been an illegitimate act, even if the order had come directly from Hitler. Nevertheless, Stern linked the fact with a specific type of crime, 'non-aggravated homicide', for which prosecution at that time was excluded by the statute of limitations. Prosecution for 'aggravated homicide', by contrast, would still have been possible in 2006. However, the Prosecutor denied that the shooting should be considered a murder, since the crime did not present any of the features which German law stipulated should be present to designate the crime as such (i.e. motivation of 'pure desire of killing'; 'for satisfying one's own sexual instinct'; 'for greed' or 'for cowardice'). In particular, in Stern's view, the shooting had been carried out for military reasons and, because the Italian officials were not 'normal prisoners of war', it was not possible to define the crime's motivation as 'cowardice'. In fact, Stern added, the Italians 'had initially been allied with the Germans' and then 'turned into fighting enemies, thus becoming "traitors", to use military slang. In this case it is as if parts of the German troops had deserted and sided with the enemy'<sup>82</sup>. Significantly, Pezzino links this same passage of Stern's judgment with Kesselring's self-acquitting arguments about his conduct during the war in Italy.

The outcome of this mode of approaching the punishment of Nazi crimes against Italians is noteworthy. As noted above, to date, only one war criminal has been condemned via a final judgement by a German court for war crimes committed in Italy, namely Josef Scheungraber, whom the Tribunal of Munich sentenced to life-imprisonment for the massacre in Falzano di Cortona in 2009. Moreover, no single Italian sentence against German war criminals who had been condemned *in absentia* by Italian justice for war crimes committed in Italy has concluded with the extradition of German citizens to Italy, nor were the sentences implemented in any form in Germany. All of this happened without any major diplomatic clashes between Italy and Germany, and despite the fact that the development of European norms concerning cooperation among member states in the spheres of policing and justice could have offered the opportunity to ensure a fair implementation of the Italian sentences in Germany<sup>83</sup>.

What reasons might lie behind Germany's failure to prosecute war criminals on a systematic basis, and its more recent 'sabotage' of the actual punishment of a small number of its former citizens responsible for

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<sup>81</sup> A similar recent denial, by the Bavarian Tribunal of Kempten, concerned the Italian request for implementation in Germany of the life sentence against Johann Robert Riss, one of the perpetrators of the massacre of Padule di Fucecchio. The Tribunal stated that the Italian trial 'does not comply with the minimum standards of the rule of law'; see M. AINIS, *E i tedeschi premiano i loro vecchi criminali*, in «L'Espresso», 17 March 2016.

<sup>82</sup> PEZZINO, *Il rifiuto*, *cit.*, pp. 285-286.

<sup>83</sup> By contrast, a major clash occurred in the early 2010s in the case of the aforementioned controversy before the International Court of the Hague, which, however, had at its centre not a criminal prosecution but a (civil) action for damages; cf. PASQUINI, *Un'ultima*, *cit.*, p. 174.

war crimes in Italy – a fellow member of the European Union – who had been convicted through a final judgement by Italian tribunals<sup>84</sup>?

An initial explanation, and one which also explains the general attitude which Germany (and, earlier, the German Federal Republic) bore towards addressing the question of punishing German citizens who were responsible for war crimes, concerns the protection granted to most German citizens from a fair trial, at their victims' expense. The actual punishment of Nazi criminals ordered by German tribunals has mainly affected a small number of Holocaust perpetrators, and no single former member of the Wehrmacht has been convicted for war crimes or crimes against humanity in Germany<sup>85</sup>. Despite the foundation in 1958 of the Ludwigsburg Central Office for the Investigation of Nazi Crimes, minor or major war criminals were often given a short prison sentence or gained access to a 'generous' statute of limitations, often thanks to categorisation of crimes as 'non-aggravated homicide' (*Totschlag*), rather than 'aggravated homicide' (*Mord*)<sup>86</sup>. Similarly, Germany's constitution has (until recently) prohibited the extradition of German citizens suspected or convicted of Nazi war crimes to foreign countries<sup>87</sup>.

However, the discrepancy between the number of Nazi criminals convicted in Germany for Nazi war crimes committed in Europe and outside Germany, and the sole conviction in Germany for war crimes committed in Italy, points towards a second, further explanation; namely the continuing diffusion of anti-Italian stereotypes in German public discourse, which, together with corresponding anti-German stereotypes in Italy, contribute to the poisoning of both transnational and international debate on specific issues, such as economic or migrant crises. We will conclude by considering some representative examples of this trend.

From this perspective, the harshest use of anti-Italian stereotypes can often be found in connection with compensation issues, not least in civil law cases. This tendency became especially marked after 2014, when the Italian *Corte Costituzionale* decided to disregard a judgement of the International Court of Justice which proclaimed Germany's immunity from civil claims in a criminal case relating to the massacre of Civitella – thus acknowledging Italy's jurisdiction over Germany<sup>88</sup>.

The «Frankfurter Allgemeine Zeitung» (FAZ) published an agitated reaction to this decision by the Italian Constitutional Court<sup>89</sup>. Even the title of the FAZ article, authored by Reinhard Müller, is significant, since *Wir geben nichts* could refer to a flat refusal to give alms to beggars<sup>90</sup>. The FAZ-columnist raises three

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<sup>84</sup> For a hypothesis about the reasons why Italy, apart from the juridical actions promoted from the 1990s onwards by the Military Prosecutor Marco De Paolis, did not insist much on the punishment of 'its' Nazi war criminals, see PASQUINI, *Un'ultima*, cit., p. 184.

<sup>85</sup> A. STREIM, *Saubere Wehrmacht? Die Verfolgung von Kriegs- und NS-Verbrechen in der Bundesrepublik und in der DDR*, in HEER - NAUMANN (eds.), *Vernichtungskrieg*, cit., pp. 569-97 (578, 593).

<sup>86</sup> On this, see R. WITTMANN, *Tainted Law: The West German Judiciary and the Prosecution of War Criminals*, in HEBERER - MATTHÄUS (eds.), *Atrocities on Trial*, cit., pp. 211-229; WETTE, *Wehrmacht*, cit., pp. 247-250, and K. VON KELLENBACH, *Vanishing Acts: Perpetrators in Postwar Germany*, in «Holocaust and Genocide Studies», 17, n. 2, 2003, pp. 305-29 (311-319).

<sup>87</sup> PASQUINI, *Un'ultima*, cit., p. 175.

<sup>88</sup> cf. L. BAIADA, *Quale memoria? I crimini nazifascisti senza giustizia*, in «Questione giustizia», 21 January 2017, [https://www.questionegiustizia.it/articolo/quale-memoria-i-crimini-nazifascisti-senza-justizia\\_27-01-2017.php](https://www.questionegiustizia.it/articolo/quale-memoria-i-crimini-nazifascisti-senza-justizia_27-01-2017.php), accessed 2 July 2023. As a judge, Baiada has been particularly active in advocating the recognition of Germany's civil responsibility. See also L. Baiada, F. Carpanelli, A. Lau, *La giustizia civile italiana nei confronti di stati esteri per il risarcimento dei crimini di guerra e contro l'umanità*, Napoli, Editoriale Scientifica, 2023; P. Caroli, *Crimini tedeschi e soldati italiani? Osservazioni sull'epilogo della triste saga dei risarcimenti alle vittime degli eccidi nazisti*, in «La legislazione penale», 15 November 2022, <https://www.lalegislazionepenale.eu/crimini-tedeschi-e-soldati-italiani-osservazioni-sullepilogo-della-triste-saga-dei-risarcimenti-alle-vittime-degli-eccidi-nazisti-paolo-caroli/>, accessed 2 July 2023. For very recent developments, see also P. Caroli, *Sollezata la questione di costituzionalità della norma istitutiva di un Fondo (italiano) per le vittime dei crimini nazisti*, in «Sistema penale», 23 January 2023,

<https://www.sistemapenale.it/it/scheda/caroli-sollezata-qlc-norma-istitutiva-fondo-per-vittime-crimini-nazisti>, accessed 2 July 2023). Between 2013 and 2017, the German Parliament funded a series of projects concerning the memory of Nazi massacres in Italy, coordinated by Germany's Ministry of Foreign Affairs in cooperation with Italy's Ministry of Foreign Affairs. Commentators such as Baiada have labelled this collaboration as a form of controversial 'reparationism' (*riparazionismo*), i.e. as a sort of German 'greenwashing' applied to Nazi crimes in Italy.

<sup>89</sup> R. MÜLLER, *Wir geben nichts*, «Frankfurter Allgemeine Zeitung», 25 October 2014.

<sup>90</sup> For a depiction of Italians as beggars see the article by Jan Fleischhauer, *Die Schmonner von Rom*, «Spiegel», 24 May 2018, which provoked a letter of complaint from the Ambassador of Italy

separate questions in his commentary. After depicting the Italian Constitutional Court ruling as a dangerous breach of international law, he describes Italy as irresponsible, since he suggests that if Italy were to allow actions for damages against Germany for Nazi crimes, this might give rise to similar actions against Italy by states which Italy had occupied during the Fascist regime, and against which it had committed war crimes. Müller then downplays Nazi crimes in Italy by praising the allegedly more responsible behaviour of other countries such as Russia and Poland, which, even if they have, unlike Italy, «immeasurable sacrifices to bemoan», refrain from making claims against Germany. Furthermore, Müller makes a meaningful allusion to Italy as a ‘former ally’ of Germany, implying that Italy’s attitude should be considered as untrustworthy today as it had been during World War Two.

Some years earlier, the FAZ had also addressed the issue of Italian claims against Germany for damages resulting from Nazi war crimes by employing anti-Italian stereotypes<sup>91</sup>. Commenting on an Anti-Fascist statement by Italian President Giorgio Napolitano during a visit to the former battlefield of El Alamein, and a decision by the High Court of Italy (*Corte di Cassazione*) to declare as legitimate actions for damages against the German State by Italian victims of Nazism or their relatives, the columnist ironically states:

More than 60 years after the war’s end, Italy is still victorious: via juridical and political means [...]. In the legal labyrinth, the judges of the Cassazione [...] are of the opinion that the hostilities between the German Reich and the “little Italians” continue to this day, and must be concluded victoriously for Italy. Giorgio Napolitano (b. 1925) appeared in the Egyptian town of El Alamein last weekend. The occasion was the 66th anniversary of two great and bloody battles in July and October/November 1942 between the allied Axis powers of Italy and Germany on the one hand, and the Allies under British leadership on the other. One would have expected that Napolitano would have honoured his country’s fallen soldiers, some 1,800, who had lost their young lives in the service of their state. Yet as a loyal member of the former Partito Comunista Italiano [...], to which he belonged from 1945 until the party’s transformation into the ‘Left Democrats’ in 1991, Napolitano continued the war with political means – no less than 70 years after the events being commemorated. [...] According to President Napolitano, the true loser of the battle of Al Elamein was Nazi-Fascism, due to its “crazy ideologies”.

This article represents Italians using a common cliché, that of the losers. They pathetically seek to reverse the course of history by trying to ‘defeat’ the Germans – whom they had first ‘defeated’ by shamefully switching sides and by joining the Allied during the Second World War – via legal means. This revanchist account depicts a battle between the “little Italians” (a reference to the stereotype regarding the short stature of the Mediterranean people) and the former German Reich, as if the Italians perceived themselves as new ‘Davids’ against the German Goliath<sup>92</sup>. The columnist then describes the performance of the Italian army during the Second World War with reference to further clichés regarding Italian uselessness and untrustworthiness:

In the German General staff and among the Wehrmacht rank and file, dissatisfaction with the Italian allies was widespread. The privates had learnt this the hard way; in France, in Africa, including in El Alamein, in the Balkans, in Greece or the Soviet Union, one necessarily had to help “the Italians”; the date of the attack on the Soviet Union had to be delayed because of helping Mussolini, with catastrophic consequences. Then they still committed “treachery” – from the outraged private’s perspective. And to top it all, they disrupted the operations of an orderly Wehrmacht retreat through senseless assassinations by partisans of the “Resistenza”, although harsh reprisals were threatened. Yet the assassinations were scarcely so senseless, since the dead as victims and the survivors’ horror were calculated. Were the attacks carried out by the “Resistenza” with awareness of their consequences?

The author mentions Italy’s assumed treason against Germany and offers an account of the behaviour of the Italian Resistance in which the Partisans are represented as both irresponsible, and at the same time jointly responsible for the Nazi massacres against the Italian population. It is significant that in the early

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(<http://www.ansa.it/sito/notizie/politica/2018/05/26/amb.italia-scrive-a-spiegel-critica-un-intero-popolo-3d77a7d1-7dc2-48aa-80c2-f8a63ccea2f1.html>, accessed 14. September 2018).

<sup>91</sup> H.-J. FISCHER, Es wird weiter geschossen, «Frankfurter Allgemeine Zeitung», 2 November 2008, quoted in Filippo Focardi, La commissione storica italo-tedesca e la costruzione di una “comune cultura della memoria”: fra dimensione nazionale, rapporti bilaterali e quadro europeo, in «Ricerche storiche», XLVII, n. 2, 2017, pp. 151-73 (p. 157).

<sup>92</sup> The ironic reference in the article concerns the 1962 German hit song ‘Zwei kleine Italiener’ by Christian Bruhn (composer) and Georg Buschor (lyricist).

post-war period the *FAZ* had been one of the main actors pleading for the end of the trials against Nazi war criminals<sup>93</sup>.

In this connection, it is also worth mentioning Jan Fleischhauer's 2012 Spiegel-online editorial on the alleged Italian national character, which provoked outrage in Italy, including a letter of complaint to the magazine from the then Italian ambassador in Berlin<sup>94</sup>. The article starts with the news of the Costa Concordia disaster off the Island of Giglio, Italy: «Hand on heart: is it a surprise to anyone that the unlucky captain of the “Costa Concordia” is an Italian? Can one imagine that such a manoeuvre, including the captain's hit-and-run action, would have happened under a German or, had we better say, a British ship's captain?»

The columnist, half in earnest, half in jest, claims that irresponsibility and cowardice are features of an alleged Italian national character. He then seems to reverse his point but ends by ambiguously applying an even more invidious racial stereotype: «Okay, that was really very wrong. We've long been unaccustomed to turn to cultural stereotypes when judging our neighbours. That's perceived as provincial, or, even worse, racist (even if, to remain in the picture, it's not completely clear how far the Italians make up a race of their own)». One possible interpretation of this last sentence is that it draws on historically-rooted racist allegations about the 'racial impurity' of the Italian population, i.e. that while other European ethnic groups allegedly constitute corresponding 'races', the Italian ethnic group would be too 'mixed' to constitute an actual 'race' – an 'accusation' which corresponds with Kesselring's allusions to the 'Mediterranean character' of Italian soldiers<sup>95</sup>. Significantly, the then ambassador of Italy, in his letter of complaint to Spiegel-online, commented on this last passage of the article, requesting the journalist to refrain from such 'racial generalisations': «Those are habits of yesteryear, which no one mourns».<sup>96</sup>

In conclusion, Anti-Italian stereotypes, such as those regarding an alleged inborn inclination to treason, mendacity, exaggeration and irresponsible acts, proved central in the defence strategy of German war criminals, such as Albert Kesselring, who were tried in the early post-war period for crimes committed in Italy. Historically, these stereotypes regarding the Italian 'national character' were shared by large sectors of (mainly North) European nations' public opinion and elites, including German (former Nazi-) and English (anti-Nazi-) leaderships. Ultimately, then, the echo of these anti-Italian tropes, along with their long-standing origins<sup>97</sup>, can still be traced in recent German jurisprudence, as well as in German public discourse more generally<sup>98</sup>.

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<sup>93</sup> FREI, *Adenauer's Germany*, cit., pp. 142-143, 175, 186-187.

<sup>94</sup> J. FLEISCHHAUER, *Italienische Fahrerflucht*, «Spiegel-online», 23 January 2012, <http://www.spiegel.de/politik/deutschland/s-p-o-n-der-schwarze-kanal-italienische-fahrerflucht-a-811817.html>, accessed 14. September 2018. For reactions in Italy see, for example, the disgraceful front-page headline of the right-wing newspaper *Il Giornale*, and the related article by the editor Alessandro Sallusti, *A noi Schettino, a voi Auschwitz*, «Il Giornale», 27 January 2012.

<sup>95</sup> Another Spiegel-online column ironically used pseudo-racist vocabulary with regard to the Italians when commenting on Italy's national team during the 2006 FIFA World Cup: 'Der italienische Mann [...], ist eine parasitäre Lebensform', ACHIM ACHILLES [HAJO SCHUMACHER], *Eingeölt und angeschmiert*, «Spiegel-online», 27 June 2006. The article was eventually removed from the website and Spiegel published apologies in German, English and Italian: <http://www.spiegel.de/sport/fussball/zu-achilles-in-eigener-sache-a-423809.html>, accessed 14 September 2018. For racist theories on alleged 'racial impurity' of Southern-European ethnic groups see: L. POLIAKOV, *The Aryan Myth: a History of Racist and Nationalist Ideas in Europe*, New York, Basic Books, 1974.

<sup>96</sup> Michele Valensise to Spiegel-online, <http://www.spiegel.de/politik/deutschland/s-p-o-n-der-schwarze-kanal-italienische-fahrerflucht-a-811817.html>, accessed 14. September 2018

<sup>97</sup> cf. H. HELLER, *Anti-Italianism in Sixteenth-Century France*, Toronto, University of Toronto Press, 2003; J. P. COLELLA, *Anti-Italian Attitudes in Medieval and Renaissance England*, Ph.D. thesis, Columbia University, 1989. For orientalist views of Italy, see D. RAPONI, *Religion and Politics in the Risorgimento: Britain and the New Italy, 1861–1875*, Basingstoke, Palgrave Macmillan, 2014.

<sup>98</sup> The same applies to a feature of the same defence strategy, i.e. downplaying the suffering of Italian victims of Nazi war crimes, as well as Germany's own responsibility for the atrocities. The reason why several Nazi war crimes in Eastern Europe have been punished in Germany, despite the widespread presence of anti-Slavic stereotypes in German public discourse, arguably depends on the numerical dimension of the crimes in Eastern Europe, which claimed far more victims, and on the fact that the crimes committed in Eastern

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Europe were much more often directly linked with the Shoah than those which were committed in Italy. On the origins of Western European stereotypes of Eastern Europe see L. WOLFF, *Inventing Eastern Europe. The Map of Civilization on the Mind of the Enlightenment*, Stanford, Stanford University Press, 1994, and M. TODOROVA, *Imagining the Balkans*, Oxford, Oxford University Press, 1997. On images of Eastern Europe in Germany, see *Germany and the European East in the Twentieth Century*, ed. by E. MÜHLE, Oxford and New York, Berg, 2003.



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