

INTER-OFFICE CORRESPONDENCE

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Villa Serbelloni

FROM: CWC

DATE: May 2, 1961

TO:

JGH		<i>JGH</i>
FMR JMP		<i>FMR JMP</i>
CG RSS	MAY 11 1961 MAY 12 1961	<i>CG RSS</i>
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EO	MAY 18 1961	

COMMENTS:

AUG 12 1963

(Copy sent to RSM, KWT, CBF, ER, AHM, WCC)

SUBJECT: Memorandum and Report on the Legal Problems of the Villa Serbelloni

Chauncey Belknap (CB) and I, while in Italy in the last ten days of April, discussed the legal problems of the Villa with GRP and Miss Commeno. We saw the following lawyers: Mario Braschi and A.E. de Libero in Milan; Biamonte (Braschi's associate) in Rome several times; Ercole Graziadei and Mario Beltramo in Rome. CB also saw Angelo P. Sereni, who has been working on the problems of the Johns Hopkins Center in Bologna. In addition, we saw Giulio del Balzo (Mario Conti's successor), Director General of Foreign Cultural Relations for the Ministry of Foreign Affairs, and a Signor Fornari in the Ministry of Grace and Justice, who is head of one of its divisions. We saw Outerbridge Horsey, Minister and Charge d'Affaires at the American Embassy twice and also Mr. Edward A. Mag who works on legal matters for the Embassy. From all these interviews and discussions, plus talks with Milton Eisenhower and Haines (Manager of the Bologna Center) of Johns Hopkins and with Richard A. Kimball, Director of the American Academy in Rome, I can summarize my impression of the state of legal matters as regards the Villa under two headings.

1. The question of legal personality or entity.

All our advisors, official and legal, concur in the opinion that the RF already possesses a legal entity in Italy by virtue of the Treaty of 1948 and that it has the rights and privileges which an Italian foundation would enjoy in the U.S. The problem arises from the fact that treaties are not self-executing in Italy. Therefore, the Ministry of Transport, the Ministry of Finance, local officials in Como, etc. can all say that they have no business to interpret treaties and can not recognize the RF as a legal entity without appropriate directives or official action.

One way to secure recognition would be to register as an Italian ente morale, but this course is precluded for policy reasons. Similarly, recognition could be secured by registering the Villa as a subsidiary organization of the RF (as a business might do for an Italian branch), but again this would subject the Villa to various fiscal and other controls. A third procedure would be to forget the question and proceed to solve each problem as it arose by means more or less

indirect or even devious. Thus the American Academy in Rome, after more than fifty years of operation in Italy, still has no recognized legal entity. When it finds itself unable to register its automobile it does so in the name of the Director, though this entails certain insurance and other problems.

CB and I decided (and in this decision Biamonte, Graziadei, del Balzo, Fornari and Mag concurred) that the appropriate procedure was as follows. CB would prepare a statement of our problem and of our desire to be recognized as a legal entity. The statement would be supported by exhibits such as a list of our grants and fellowships in Italy, the last Annual Report, Fosdick's history, etc. This material will be presented to the American Embassy, which would forward it to del Balzo with a strong covering letter urging action. Del Balzo, hopefully with an endorsement from the Foreign Minister, would present it to the Ministry of Grace and Justice. From the Ministry of Grace and Justice we hope to get a document of some sort - letter to the Foreign Minister, letter to the Embassy, letter to the RF, certificate, memorandum to whom it may concern, or the like - which will state that the RF has a legal entity in Italy under the Treaty. This we will duplicate in quantity and present to the appropriate official whenever there is a problem, e.g. registering a motor vehicle.

CB and I had such assurances of support from the Embassy and del Balzo that it seems possible that by the time CB leaves Rome the process outlined above may be well advanced and that the crucial document might come through in May or in June.

2. The problem of tax exemption.

CB and I spent considerable time discussing the tax exemption problem with the lawyers, with the Embassy, with del Balzo, etc. Whereas Braschi and Biamonte were and had been acting on the legal entity matter, the tax exemption problem was in the hands of Graziadei. Investigation somewhat simplified the matter. It became clear that some of the taxes were not on the RF or were not appropriate to seek exemption from. For example, the "ricchezza mobile C 2" is not, as might appear, a payroll tax but an income tax on the RF employees which the RF withholds. The Princess had established the custom of paying it rather than withholding it, and this the RF has continued, but since it has the right to withhold it, it is clearly not a tax on the RF. It also seems that while it would be a good thing to have the payment of social security taxes voluntary on the RF's part as it is in the U.S., still since we plan to pay them anyhow and since they are socially desirable, we should not insist too far on exemption from them. Likewise, import duties are so unimportant for the Villa that there is no need to push hard on them. The remaining taxes from which the Villa should be exempt are the national and communal taxes on the land and buildings. Here the RF is paying the national taxes under protest and is making a voluntary contribution of comparable amount to the commune of Bellagio in lieu of taxes. The lawyers unanimously informed us that the commune had no right not to collect the taxes and that, despite our voluntary gift, the RF was still liable for them. Despite this unfortunate situation, CB and I expect no problem to arise therefrom, since I at least am confident that Bellagio is reporting the RF "gift" as taxes collected. Still, the situation is not a satisfactory one.

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It seemed clear from the legal and official advice that tax exemption was a more difficult problem than legal entity. While it can be argued that it should come to the RF under the reciprocity features of the Treaty of 1948, it seems fairly clear that in practice it can not be secured except by an official act like a presidential decree or an act of the legislature. Such an act might be difficult to secure but probably not impossible, particularly with support from the Embassy and the Ministry of Foreign Affairs. It is to be noted that the American Academy is paying taxes (though apparently minimal ones) on its land and buildings. Johns Hopkins has secured tax exemption on its new building in Bologna but apparently under a general tax exemption for new buildings rather than as an educational institution.

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On these two problems, CB and I agreed to pursue the first vigorously with a view to rapid action and to initiate steps to secure the second.

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I formed an unfavorable opinion of Italian lawyers. Braschi and Graziadei seemed to have done almost nothing for the RF in the last year, though the former was seized of problem 1 and the latter of problem 2. Graziadei struck me as very smart but a name dropper and influence peddler as much as a lawyer. Biamonte seemed a distinct cut above the others in energy, directness and legal ability.

C.W.C.

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