

To the Commissar for the completion of the *libro fondiario* (*Grundbuch*)
at the *Ufficio Tavolare* (Land Registry office) of Trieste

New request, with new facts, reasons, exceptions and requests,
to urgently complete the Land Registry (*Grundbuch*)
by registering *ex lege* the ownership and constrains of public properties
in the Northern Free Port (s.c. Old Port) of Trieste

and contextual opposition and warning
against accepting any request, whoever presents it,
to complete the Land Registry and attribute the ownership
of the above mentioned goods and any other public property
in elusion or violation of the ownership titles and constrains
established *ex lege* under the Treaty of Peace of Paris of 10.II.1947
as ratified and implemented with laws, in force, of the Republic of Italy

Main ownership titles and law in force: Treaty of Peace between the Allied and Associated Powers and Italy, signed at Paris on 10 February 1947; Law No. 811 of 2 August 1947; Legislative Decree of the Provisional Head of State No. 1430 of 28 November 1947; Law No. 3054 of 25 November 1952; Constitution of the Republic of Italy, articles 10, sub-paragraph 1 and 117, sub-paragraph 1; Decree of the President of the Republic of 27 October 1954; pertinent Decrees of the General Commissar of the Government for the Territory of Trieste and of the General Commissar of Government in Region Friuli Venezia Giulia; *Legge Tavolare* (*Grundbuch*); Constitutional Law No. 1/1963, articles 2, sub-paragraph 1 and No. 4, sub-paragraph 1 and point 3, and Regional Law of Friuli Venezia Giulia No. 15/2010, article 70

PETITIONERS

Jointly and individually, as bearers of legitimate interest - even as co-owners of the public goods for citizenship share - to promote and archive the requested actions by virtue of the titles activated:

1. **Roberto Giurastante**, born in Trieste on 3.24.1965, citizen *de iure* and *ope legis* of the Free Territory of Trieste (Territoire Libre de Trieste, Свободная Территория Триест, Territorio Libero di Trieste), as well as equipped of accessory Italian citizenship, acting as himself and as legal representative of the non-profit political organization “Movimento Trieste Libera”, established to represent the legitimate interests of the Free Territory of Trieste and of its sovereign population, and delegated to act in realisation of this purpose with more than 20,000 signatures of the citizens, 15,000 of which have already been lodged before the United Nations, who as petitioner in both roles, states his address for service related to his demand in Trieste, piazza della Borsa 7, at the Movimento Trieste Libera;

2. Paolo (G.) Parovel, born in Trieste on 6.19.1944, citizen *de iure* and *ope legis* of the Free Territory of Trieste (Territoire Libre de Trieste, Свободная Территория Трриест, Territorio Libero di Trieste), as well as equipped of accessory Italian citizenship, Foreign Affairs Commissioner of the Free Trieste Movement, who as petitioner, states his address for service related to his demand in Trieste, piazza della Borsa 7, at the Movimento Trieste Libera;

Thus underlining that the request is legitimized by the interest, right and civic duty to obtain the completing of the Land Registry in order to protect the law from violations that is proper of the Land Registry Law in force in Trieste, with the registration of particular public properties in the goods within the *pubbliche tavole* (public tables) in fulfilment of the applicable legal titles established under international and Italian laws, which establish their ownership, constrains and titles whose registration and inscription *ope legis* remains a duty *ex officio* of public administrators and is applicable but whoever has interest in it.

PREMISE AND NEW FACTS AND RESONS

On 22 April 2015 the present petitioners presented to this Commissar a first request with the same object, registered under No. 3/COMP/15.

The question was presented to protect the legal ownership and destination of use of a large, State-owned port area bounded to the use of international Free Port, but notoriously and provenly threatened by consociations of public and private subjects who are maliciously attempting to violate these by actions and mean denounced as criminal offences to the competent judicial and investigative authorities.

For this purpose of defense of public interests, the underwritten requested to complete the Land Registry Book by inscribing the immovable properties identified and the registration *ope legis* of their ownership and destination of use as established by virtue of the specific provisions of the Treaty of Peace with Italy of 10 February 1947, in force, and of the Italian laws, in force, for its ratification and full execution, without reserves, of the same Treaty (Law No. 811 of 2 August 1947; Legislative Decree of the Provisional Head of State No. 1430 of 28 November 1947; Law No. 3054 of 25 November 1952).

The title activated this way has the status of an imperative requirement of the law, whose enforcement - upon request of *ex officio* - is an international obligation that in the Italian legal system prevails on national and regional law (articles 10, sub-paragraph 1 and 17, sub-paragraph 1 of the Constitution of the Republic of Italy);

After this first request, took place following new facts, documented in two public acts, attached sub 6, 7 and 8 to the present, new request as its new and implementing reasons:

– **annex 6:** decision No. VG 67/2015 of 19 June 2015 of the Court of Appeal and the deriving Decree of the Land Registry Judge of 1 July, notified to the petitioners on 30 July 2015;

the decision of the Court of Appeal did not dispute over the legal title, not over the legitimacy of the applicant, rather, it declares «not to proceed» to the inscription of the properties and the registration of the ownership, stating that on the contrary «public properties are not included in the Land Registry as long as they maintain, as requested, their destination of use, unchanged (well-established principles of legal literature and of case-law, exclusively for Land Registry inscriptions different from these in Trentino Alto Adige), and that, as for this case, there is no act of authorisation of concession (required under Regional Law No. 15, article 5, year 2012, as premise for the inscription)»;

Ne appare tuttavia evidente che tale motivazione giustificativa del rifiuto di ordinare esecuzione della domanda elude la questione scriminante per la quale essa è espressamente formulata, ovvero a quale Ente, e di quale Stato, appartengano per legge i beni pubblici dei quali si chiede l'iscrizione a garanzia da minacciate violazioni della proprietà e dei vincoli.

– **annexes 7 and 8:** "*Verbale di individuazione della nuova dividente demaniale*" (Minute of the identification of the new state-owned share), and the map attached to it, as undersigned on 9.VII.2015 by the representatives of certain public bodies who attempt to elude and violate, without legitimate titles, the title of ownership and the destination of use established by the law for the port properties in question: due to this, even the heading of the act, which boasts the main insignia of the Republic of Italy is surreptitious or, at least, improper;

the "Minute" and its map are public acts with which the under-signatories bound themselves to radically alter, jointly, and in agreement, the nature of the public properties in question, in order to sell these to private subjects for uses different than port uses by assigning, for the purpose, the title of ownership over these to a body that, exactly like this purpose, is absolutely different from these established by virtue of the specific imperative norms of the Treaty of Peace, which in the Italian Legal System prevail, by constitutional constrain, also on the most recent domestic Italian provisions (Law 190/2014, article 1, sub-paragraphs 618, 619 and 620) surreptitiously recalled in the "Minute", of which follows, in the text, a reasoned exception of anti-constitutionality, for all legal intents;

the last three paragraphs of the "minute" do also envision that the signatories commit the envisioned, radical alteration of the nature of the public properties also through the needed registration of the lands and immovable properties in the Land Registry Book, but with registration of ownership and destination of use different from these of the prevailing title, activated in defence of these properties within rejected request No. 3/COMP/15 as well as with the present, new request;

yet, the act does not contain mentioning of ownership titles that the signatories are willing to activate to register the properties, notwithstanding that the registration procedure does not allow eluding or presenting implicit titles of ownership;

also, it is to take into account that the text of the "Minute" reveals that it was arranged since a long time, but, in order to officialise it, the signatories waited for the issuing of the above mentioned negative ruling of the Court of Appeal of Trieste and the following decree of the Land Registry Judge, even if these had not been notified to the petitioners yet and thus before they could lodge a statement of opposition;

this act does therefore confirm once again that the operations to alter the nature of the public properties of the port under threaten by registering these to a selling body, and from this to private purchasers, are knowingly grounded on the preliminary condition that the Court of Appeal omits or refuses the registration of these same properties in the Land Registry Book only to those who request the registration of the title of ownership and destination established under the precedent and prevailing legal title;

this consideration gains especial relevance in the light of what was previously documented and denounces both to competent Courts and to public opinion as for the entity of the housing and building speculation that are supported by these means, on the consequent negative impact on local economy, as well as on the fact that the impossibility to recover the port area is pretentious and that the whole operations is burdened with anti-corruption and antimafia, as well as environmental questions, which were as well notified to the competent Courts.

Provided that, for the purposes of liability, all public officers of the Republic of Italy have the legal obligation, in the carrying out of their duties, to enforce the laws and prevent, on denounce of *ex officio*, illicit behaviours that are identifiable or presupposed to be of criminal nature, it is important taking into account that, for the purposes of the present request, the following new fact, documented with public acts:

– confirm and demonstrate that the already presented request of registration in the Land Registry Book of the public properties in question, with registration of the title of ownership and destination of use established in the form of international obligation under imperative legal provisions, Constitutionally prevailing on national and regional laws, it is necessary, dutiful and urgent to prevent non-owner and unauthorized subjects from eluding this legal title in order to completely change the nature of these public properties in order to allow their sale to private subjects;

– confirm and demonstrate that those non-owner subjects are willing to demand and obtain themselves the modification of the nature of the public properties with their own requests to complete the Land Registry Book by registering, and/or direct registration, grounded on the omission of the registration, to this day, and notwithstanding the request to take care to do so, of the previous title of ownership and destination established under the Constitutionally prevalent, imperative norms of the Treaty of Peace of 1947, in force;

– confirm and demonstrate that those non-owner subjects might obtain this modification of the Land Registry Book as for the nature of the properties eluding the law only with the complicity of the Court of Appeal and the Land Registry Judge in refusing or delaying the requested completing of the Land Registry Book with the registration *ex lege* of the previous title of ownership and destination of use established under the Constitutionally prevalent, imperative norms of the Treaty of Peace of 1947, in force;

Substantially, these subjects, being used to the brutal prevailing of politics above law (to the point of declaring it in public and to local press in regard to this very case) they would intend to have the Court of Appeal and the Land Registry Judge denying the right to the very same procedure on the very same public properties to the ones who bear these and activates the rightful, valid ownership title, only to concede it to those who are willing to seize the properties without opposing any valid title of ownership.

It is as much clear that the title activated with the previous request, No. 3/COMP/15, and now once again with the present demand, has the nature of an imperative law, which does prevail on national or regional law under a Constitutional constrain.

Its execution on demand or *ex officio* does therefore remain mandatory by its own nature, prevailing also on the subordinate requirement of the subsistence of the acts of authorization or concession envisioned under Regional Law 15/2015, article 5, but also on any other provision of said law, an on the very *legge tavolare* (Grundbuch / Land Registration Law).

This is also demonstrated by the registrations of this kind that to already exist in legal force, like the example lodged with the previous and once again to the present request (**annex 4**).

It is also clear that only after the execution, on demand or *ex officio* of the registration in the Land Registry Book and of the mandatory recording of this previous and prevailing title whoever has interest in arguing its decadence to acquire without committing fraud, therefore in good faith, for all legal purposes (article 1479 of the Italian Civil Code), ownership over these properties can legitimately lodge a request to register successive titles of ownership considered valid or sufficient for the purpose.

Also, this does not only apply to acts of the Land Registry Office, but also to these of the Cadastre and to any other public act, of any public body and of all kinds, which involves ownership of the destination of use of public goods that were transferred and established with this previous and prevailing title of international and Italian law.

We do also underline, for all purposes of liability, for all respects, and reserving to provide more details when needed, that to this day the competence of Region Friuli Venezia Giulia, of the Court of Appeal of Trieste and of the Land Registry Judge on the matter do nor directly derive from the jurisdiction of the State of Italy, but from normative acts of the provisional, administrative over the current Free Territory of Trieste, exercised since 1954 with the specific decrees of the General Commissar of

the Italian Government for the Territory of di Trieste, whose powers were mostly transferred in 1963 to the Commissar of the Government in Region Friuli Venezia Giulia, and partially to the Region itself and to a Prefect; all of them continue exercising said powers to this day.

For the purpose of the present act, we underline that the expressions "current Free Territory of Trieste", *Territorio Libero di Trieste*, Free Territory of Trieste, do refer and mean the current extension, which consists in the Municipalities of former "Zone A", since in 1992 its sovereignty over former "Zone B" ceased with the realization of the conditions established under article 30, point 3 of the Vienna Convention on the Law of Treaties, with the international recognition of the new independent Republics of Slovenia and Croatia.

Due to this, and in the light of the new facts, the undersigned petitioners formulate:

1) the present new request to complete the Land Registry Book by inscribing the properties listed and registration of the ownership and constrains established under the recalled provisions of the Treaty of Peace of Paris of 10 February 1947, in force, and of the Italian laws of ratification and full implementation, without reserves, of the same Treaty;

2) contextual, preliminary opposition and warning against fulfilling any demand, whoever presents it, to complete the Land Registry Book and register the above mentioned or other public properties eluding or vilation the ownership titles and constrains established *ex lege* by the Treaty of Peace of Paris of 10.II.1947 as ratified in full and executed without reserves with laws in legal force of the Republic of Italy; this warning does also have the status of title and request of the undersigned to be informed of the existence and of the status of the above mentioned, eventual procedure, activated by third parties in respect to these properties;

3) contextual, full reserve of appeal and possible actions for the compensation of damages caused by the negative outcome of the previous request No. 3/COMP/15, following verification of the acts, especially in regard to the compliance with the obligations established under articles 27 and 28 of Regional Law No. 15/2010 and of the requested special publicity of the procedure in respect to the international bodies and States holding rights, *ex lege*, over the public properties subject to the present request;

4) contextual, full reserve of any other action of defense and reparation of damages, in any form and in every Court, even international, to defend the rights activated with the precedent and with the present request.

LAW

A. Titles of ownership *ex lege* and of legitimate interest in force whose registration is being requested as properties of the "Demanio dello Stato del Territorio Libero di Trieste – Porto Franco internazionale di Trieste" - "State Property of the Free Territory of Trieste – international Free Port of Trieste".

Are integral titles for the registration of this request as well as titles of the legitimate interest of the petitioners to demand and obtain it:

1) the Treaty of Peace between the Allied and Associated Powers and Italy, in force, signed in Paris on February 10, 1947, which has come into force with the deposit of the instruments of ratification by the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America and France (Article 90) as well as Yugoslavia, India, Canada and Italy, on 15 September, 1947, ratified and enforced by Italy with: Law No. 811 of 2 August, 1947, authorising the Government of the Republic of Italy to ratify the Treaty (in Official Gazette No. 200 of 2 September, 1947); Legislative Decree of the Temporary Head of State No. 1430 of 28 November, 1947, full implementation of the Treaty (ordinary supplement to Official Gazette No. 295 of 24 December 1947); Law No. 3054 of 25 November, ratifying Legislative Decree No. 1430 of 28 November, 1947 (in Official Gazette No. 10 of 14 November, 1953), registered at the United Nations by the Union of Soviet Socialist Republics and by France on 15 March, 1950 (United Nations Treaty Series, Volume 49 – 1950, N° 747, Treaty of Peace with Italy, signed at Paris, on 10 February, 1947).

Precising that this request recalls the pertinent provisions of the Treaty of Peace, which is a multilateral normative Treaty, in force (cfr. anche *US Department of State, Treaties in Force, 2013*), as written, published and registered at the United Nations, in its French, English and Russian version, authentic, and in Italian as a non-authentic text, yet, officialized by the Republic of Italy with the Legislative Decree of the Temporary Head of State No. 1430/1947, ratified with Law No. 3054/1952.

Precising that this subject is also regulated by the principles of customary international law, codified, in particular, by two multilateral normative treaties: the *Charter of the United Nations* of June 26th, 1945, which binds all the the Member States, undersigned by Italy on February 22nd, 1956 and ratified with Law No. 848/1957, and the *Vienna Convention on the Law of Treaties* adopted on May 22nd, 1969, ratified and implemented by Italy with Law No. 112/1974 and in force since January 27th; the same principles were also confirmed with the Final Act of 1975, which concluded the Conference on Security and Co-operation in Europe.

For the purposes of this request, **sub 1 and 2 a) b) c) d) are annexed copies** of the multilateral Treaty in force, registered by the Organization of the United Nations as well as the three, above mentioned implementing measures of enforcement and ratification on the part of Italy, published respectively on the UN Treaty Series and in the *Gazzetta Ufficiale della Repubblica Italiana* (Official Gazette of the Republic of Italy), which, as official means of publication of international legal instruments (under Article 102 of the Charter of the United Nations) and of Italian laws and, as for this case, these serve as proof of the existence of the titles of legitimacy on which this request is founded.

2) in particular, the following Articles and Annexes of the multilateral Treaty of Peace itself, in force, concerning the establishment, the legal order and the rights of the Free

Territory of Trieste (Territoire Libre de Trieste, Свободная Территория Триест, Territorio Libero di Trieste) as well as the duties and rights of the other States towards it: Articles No. 4, 21, 22, 48 point 5, 78 point 7, 79 point 6 g), 85; Annexes No. I-Maps, VI-Permanent Statute of the Free Territory of Trieste, VII-Instrument for the Provisional Regime of the Free Territory of Trieste; VIII-Instrument for the Free Port of Trieste; IX-Technical dispositions regarding the Free Territory of Trieste; X-Economic and financial provisions relating to the Free Territory of Trieste.

3) in particular, the following provisions of the same multilateral Treaty of Peace, in force, and of its Annexes concerning the real properties, as well as the related prohibitions and restrictions on use as well as of the rights *in rem* of the Free Territory and of other States, of which we request the registration:

a) Article 21, point 1, of the multilateral Treaty, in force, which rules the establishment, at the coming into force of the same Treaty, of the Free Territory of Trieste (Territoire Libre de Trieste, Свободная Территория Триест, Territorio Libero di Trieste) as a sovereign State provided with its own territory, population, legal system and government, recognised by the Signatory States and by the United Nations and under the direct protection of the Security Council, which accepted this responsibility with Resolution No. 16 of January 10th, 1947, **a copy is annexed sub 3.**

b) Article 21, point 2, of the multilateral Treaty, in force, which rules the contextual termination without conditions of Italian sovereignty over the area of the Free Territory of Trieste since the coming into force of the Treaty;

c) of Article 1 of Annex X of the multilateral Treaty in force, which rules and, at the coming into force of the Treaty of Peace, has the effect of ceding *ex lege*, the immediately transfer to the Free Territory of, without payment, all Italian State and para-statal, movable and immovable property (specifying the nature of the organizations of origin) within the Free Territory, therefore, since that moment, these are excluded *ex lege* from the Public/State property of the Republic of Italy and its organs, becoming eligible *ex officio* to constitute the Public/State property of the Free Territory of Trieste which, as such, is a common property of its sovereign population - the community of its citizens *de iure*.

d) Article 90 of the multilateral Treaty, in force, establishing the conditions and time of its coming into force;

e) Article 34 of Annex VI and the whole Annex VIII of the multilateral Treaty, in force, which establish the creation and international regime of the Free Port (Port Franc, Свободный Порт, Porto Franco) of Trieste;

f) Article 85 of the multilateral Treaty, in force, which, among the miscellaneous economic provisions of the Treaty does clearly include the provisions of Annexes M VIII and X ruling that, likewise to these of the other Annexes, these are to be considered integral part of the Treaty and therefore have the same value and effect;

g) Article 2, point 1 of Annex VIII of the multilateral Treaty, in force, which rules the creation of the Free Port of Trieste as a State Corporation of the Free Territory of Trieste, with having all the attributes of a juridical person;

h) Article 3, point 1 of Annex VIII of the multilateral Treaty, in force, which regulates the definition of the area of the permanent Free Zones of the international Free Port of Trieste within the limits of the Free Zones of the Port of Trieste in existence in 1939, **a copy is annexed sub 4**, therefore, binding the areas to this exclusive use;

i) Article 3, point 4 of Annex VIII of the multilateral Treaty, in force, which allows to eventually increase the Free Port outside its permanent Free Zones mentioned in Article 3, point 1, but does not allow to eliminate or substitute these, confirming once again the permanent nature of the restriction on use of these areas to the exclusive use as international Free Port established and regulated under Annex VIII itself;

j) Article 2, point 2 of Annex VIII of the multilateral Treaty, in force, which establishes to transfer *ex lege*, without payment, to the international Free Port of the Free Territory of Trieste all Italian state and para-statal property transferred to the Free Territory of Trieste under Article 1 of Annex X which is within the boundaries of its permanent Free Zones (Article 3, point 1), to form the original, permanent and essential resource of the Free Port itself, as a State Corporation of the Free Territory of Trieste (Article 2, point 1);

k) Articles 1, 3 points 2 and 3, 5 points 1 and 2, 6, 7 points 1 and 2, 10, 12, 22 and 24 of Annex VIII of the multilateral Treaty in force, which establish the destinations, restrictions on use as well as of the rights in rem of third parties, to bring and to the benefit of all the permanent and additional areas of the international Free Port of Trieste, in particular:

- the exclusive destination of the immovable properties as customary Free Port destined to be used “on equal terms by all international trade and by Yugoslavia, Italy and the States of Central Europe, in such manner as is customary in other free ports of the world”, with the international regime governed by the provisions of Annex VIII itself, which clearly includes the activities of warehousing, storing, examining, sorting, packing and repacking and similar activities, as well as the procession of goods and authorises manufacturing activities (taking into account that “Yugoslavia” now refers to its Successor States);

- the rights of the merchant vessels and goods of all Countries of the world, therefore extended to all the enterprises which carry on their maritime traffic, trade, transformation - processing - and industrial activities of the unrestricted access to the Free Port for loading and discharge both for goods in transit and goods destined for or proceeding from the Free Territory without the levy on such goods customs duties or charges other than those levied for services rendered.

- the prohibitions to establish special zones in the Free Port under the exclusive jurisdiction of any State, as well as the prohibition to discriminate on the nationality of the vessels, the ownership of the goods or on any other grounds when it comes to

determinate and receive the pertinent rights and fixing and levying harbour dues and other charges in the Free Port;

- the right of Italy and of Yugoslavia to request and obtain, if allowed, the exclusive use of berthing spaces within certain parts of the area of the Free Port. (taking note that here the name “Yugoslavia” refers to its Successor States);

- the right of the citizens of any State who are engaged in any legitimate pursuit in the Free Port to access it without unduly impediments;

- the right of the International Commission in charge of the administration of the Free Port referred to in Articles 21, 22 and 23 of Annex VIII, consisting in the representatives of the following States: the Free Territory of Trieste, France, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the United States of America, the People's Federal Republic of Yugoslavia, Italy, Czechoslovakia, Poland, Switzerland, Austria and Hungary, to have its seat and offices in the Free Port and exempt from local jurisdiction (taking note that the names “Union of Soviet Socialist Republics”, “People's Federal Republic of Yugoslavia”, “Czechoslovakia,” now refer to their successor States);

- the obligation to subject to the procedures of resolution envisioned in Article 24 of the same annex any dispute relating to the interpretation or execution of the provisions of Annex VIII of the Treaty of Peace concerning the regime and consistency of the international Free Port of Trieste and its areas.

l) Articles 1, 3, 6, 7, 8, 9, 11, 13, 14, 18, 19, 20, 21, 22, 23, which establish the exclusive powers of administration of the international Free Port of Trieste and, with it, of immovable properties, assigned to the Director of the Free Port referred to Article 18, as part of the provisions of the State legal order and of the executive and jurisdictional bodies of the Free Territory of Trieste and with the power to control the management of the Free Port which are assigned to the International Commission referred to Article 21;

m) Articles 21 and 90 of the multilateral Treaty, in force, and Annexes VI and VII, which establish the Free Territory of Trieste, a parliamentary democracy provided with its own legal order, territory, sovereign population consisting in the people entitled *ope legis* to its citizenship, and of the current provisional regime of Government as preparatory administration for the permanent regime;

n) Article 2 of Annex VII of the multilateral Treaty, in force, which establishes as main direct beneficiary of the temporary administration of the Free Territory of Trieste its sovereign population consisting in the people entitled *ope legis* to its citizenship, who therefore are directly entitled of the legitimate interest to the enforcement of all the provisions of the Treaty of Peace concerning - directly or indirectly - their rights and their moral and material wellbeing, including the direct and indirect rights of work and free enterprise through the regime and areas of the international Free Port;

o) Article 2, sub-paragraph 3, of Annex VII, which establishes the obligation, for the Authority in charge of the provisional government of the Free Territory of Trieste, to enforce also in the Provisional Regime all applicable provisions of the Permanent Statute referred to in Annex VI, therefore, establishing the consequent right and legitimate interest of the citizens, States and enterprises to their enforcement.

B. Obligation to attribute *ope legis* the status of State Property of the Free Territory of Trieste to all movable and immovable public properties that were transferred to it since 15 September 1947 under the multilateral Treaty of Peace in force, ex Article 1 of Annex X.

All public State and para-statal immovable properties referred to at Article 1 of Annex X of the Treaty of Peace with Italy signed in Paris on 10 February, 1947, which has come into force on 15 September, 1947, being or not registered on the *Libro Fondiario* (Land Registry) and/or are recorded as a property of the State or other subjects governed by Public Law referred to in the norm (local authorities and of public institutions and publicly owned companies and associations), are *ipso facto* to be considered transferred, *ope legis*, since that moment, as well as the movable properties of the same subjects, to the exclusive property of the Free Territory of Trieste (Territoire Libre de Trieste, Свободная Территория Триест, Territorio Libero di Trieste) constituting, *ex lege* its State/demanial property.

That for this reason, since 15 September, 1947, all cadastral registration and registrations of property rights or any other related right related to the above mentioned immovable properties which were previously or successively concluded in the name of the “State Property” and/or of the “State Demanial Property”, or in the name of the other public subjects referred to at Article 1 of Annex X of the multilateral Treaty of Peace in force, must obligatorily be intended *ope legis* no longer as the State/demanial property of the Republic of Italy (whose titles of sovereignty and ownership have ceased on that date, respectively, under Article 21, point 2 and of Article 1 of Annex X of the same Treaty) nor of said authorities, but to the State/demanial property of the newly established owner *ex lege*, which is the Free Territory of Trieste (Territoire Libre de Trieste, Свободная Территория Триест, Territorio Libero di Trieste).

Since this is a transfer of ownership *ope legis*, under the multilateral normative Treaty, in force, which is a Constitutional, binding and superordinate part of the Italian legal system, it has effect on the ownership and availability of the movable and immovable properties referred to at Article 1 of Annex X of the Treaty *ipso facto* and *ex tunc*, even prescinding the actual, careful and rightful full registration of the of the ownership or the open explanation of the implicit fact that since 15 September, 1947, the term “Stato” within the Free Territory of Trieste is exclusively used and cannot but refer to the Free Territory of Trieste as exclusive holder of the sovereignty.

As for this matter, it is of use mentioning, among the registrations of public properties in the Land Registry of Trieste, in the name of public administrations which, after 15.9.1947 were transferred under the Treaty of Peace to the *Demanio dello Stato del Territorio Libero di Trieste* (State Property of the Free Territory of Trieste), the

registration, in force, of the property classified as cat. 304, now p.c.n. 915/3 in PT 751 of the *c.c. di Bologna* (census district of Bologna), to the “*Demanio dello Stato – Sovraintendenza dell’Amministrazione delle Poste e Telecomunicazioni – Territorio Libero di Trieste*” - “*Demaniaal Property - Superintendency of the Post and Telecommunications - Free Territory of Trieste*”, registered in 1950, erroneously modified in 1994 assigning it to the “*Ente Poste Italiane, con sede in Roma*” and restored, in 1995, to its original form by the *Giudice tavolare* (Land Registry Judge) upon notice of the *Conservatore del Libro Fondiario* (Registrar of the Land Registry). A copy of the registration, as it appears on the ledger, **is annexed sub 5** to provide an example.

C. Obligation to register and titles of jurisdiction of the Land Registry Judge in Trieste.

The present request regards ownership rights established *ex lege* on the immovable properties listed at the end of this document of which, therefore, in Trieste must undergo the registration in the Land Registry, *ex officio* and upon request, this does also apply to all other immovable goods belonging to the categorie listed at point C, under the fundamental principles of the Land Registry Law (principle of consensus; principle of speciality; principle of application; principle of registration; principle of legality; principle of the publicity).

The obligation does not prescind from the verification of the title of jurisdiction exercised by the Italian Land Registry Judge currently in charge of Land Registry proceedings, which means whether he believes - rightfully or falsely - to exercise the jurisdiction of the Free Territory of Trieste or that of the Republic of Italy.

The performances required to enforce the provisions of the Treaty of Peace with Italy, signed in Paris on 10 February 1947 are equally binding and have legal efficacy under both legal systems.

The Memorandum of Understanding signed in London on 5 October 1954 as an additional executive instrument of the Treaty of Peace has entrusted the temporary civil administration of the Free Territory of Trieste, including the international Free Port, to the responsibility of the Italian Government (not to the Republic of Italy) and, by accepting the duties of this mandate, the Italian Government has taken on itself and in the name of the bodies it has delegated for the purpose, became responsible for that to the delegating authority, the Security Council of the United Nations, to the administered Free Territory of Trieste, to its sovereign population and to all third parties governed by private, public or international law.

On the other side, the Republic of Italy has recognized the Free Territory of Trieste, assuming all the consequent obligations under international and domestic law towards it, its citizens *de iure* and all third parties governed by private, public or international law, under the laws, in force, which with it ratified and fully enforced the Treaty of Peace: Law No. 811 of 2 August, 1947, authorising the Government of the Republic of Italy to ratify the Treaty (*in Official Gazette No. 200 of 2 September, 1947*); Legislative Decree of the Temporary Head of State No. 1430 of 28 November, 1947,

full implementation of the Treaty (*ordinary supplement to Official Gazette No. 295 of 24 December 1947*); Law No. 3054 of 25 November, ratifying Legislative Decree No. 1430 of 28 November, 1947 (*in Official Gazette No. 10 of 14 November, 1953*).

Also, those international obligations did become binding and prevail on the domestic legislation of Italy under Article 10, sub-paragraph 1 and then also Article 117, sub-paragraph 1 of the Constitution of the Republic of Italy.

The obligation to register the title as well as the consequent restrictions and rights *in rem* leading to the present demand do therefore prescind from preliminary or successive verifications of the title of jurisdiction of the Italian Land Registry Judge serving in Trieste, since the purposes of the rightful implementation of this demand does not envision that they do - or think to - exercise, in carrying out their duty and in completing the precise, requested act, the jurisdiction of the Italian Government under the mandate of special trusteeship (temporary civil administration) entrusted to its responsibility under the Memorandum of Understanding of London of 1954 on behalf of the Security Council of the United Nations, or the jurisdiction of the Republic of Italy.

Because the full enforcement of the Treaty of Peace, even when it comes to the Land Registry Law, is at the same time a duty of both the Italian Government as provisional Government (temporary civil administrator) of the Free Territory of Trieste and its organs, and of the Republic of Italy and its organs, under its binding Constitutional laws, in force.

Therefore, any and water exception of the title of exercise of the State jurisdiction within the Free Territory of Trieste cannot affect the right of the petitioners, or any other subject, to demand and obtain this registration, nor the duty of the Land Registry Judge to fulfil it, but only possible, successive and consequent legal facts once the registration in the Land Registry is complete.

Also, due to this, the petitioners state underline neither this demand nor the eventual payment of levies, taxes, rights or other charges to the Republic of Italy or its organs, requested rightly or wrongly, in regard to the procedures resulting from it would not represent a recognition of the sovereignty of the Republic of Italy over neither the Free Territory of Trieste nor over the International Free Port of Trieste.

D. Impossibility to bring forward or receive oppositions of the Italian State and its bodies and stratal or para-statal bodies, or even third parties.

The transfer, since 15 September 1947 of the ownership *ex tunc* to the Free Territory of Trieste of all Italian movable and immovable, Stata and para-statal properties takes place under a multilateral international Treaty, in force, ratified and enforced by the Republic of Italy, which is bounded to observe it through all of its bodies and its own Constitution (Articles 10, sub-paragraph 1 and 117, sub-paragraph 1), and cannot oppose an equal, actual title to that.

Therefore, eventual oppositions raised by either the Republic of Italy or its organs and State or para-statal organization to the acts recognizing the transfer of these properties to the ownership of the Free Territory of Trieste - as is this registration - would be improbable, inadmissible and null as if would violate both the legal order of the Free Territory of Trieste and of the Republic of Italy.

Also, since the properties on which is pending this request of registration are State properties, these cannot even be acquired by *usucaption* by third parties, nor expropriated, and the rights on these which are as sight to the Owner do not expire.

E. Objective and well-known condition of *periculum in mora*.

The tangible objects asked to be registered have a clear and very relevant function and value for both local and international economy and they are in a condition such that any further delay of the - to this moment omitted - registration *ex officio* of their legal property would be itself a serious, objective and well-known danger (*periculum in mora*) as these could be misused and damaged by public or private entities that have no title of ownership.

This condition is now demonstrated by the new facts and documents produced and analyzed in the premise of this new request and annexed sub 6, 7 and 8.

The undersigned petitioners do therefore confirm to be bearers of legitimate and relevant interests to bring forward the present request and to obtain its full and prompt reception.

REQUEST

The undersigned do therefore request that, in execution of the legal obligations of the Treaty of Peace between the Allied and Associated Powers and Italy, signed at Paris on 10 February 1947, in force, listed above and concerning the Free Territory of Trieste (Territoire Libre de Trieste, Свободная Территория Триест, Territorio Libero di Trieste) and the international Free Port of Trieste (Port Franc, Свободный Порт, Porto Franco) as ratified and executed by the Republic of Italy and constituting imperative legal measures, with Constitutional prevalence on national and regional Italian laws, taking into account articles 70 and 4, point 5 as well as the Land Registry Law (*Legge Tavolare*) and articles No. 1 and 5 of Regional Law of Friuli Venezia Giulia No. 15/2010,

to start and complete

the procedure to complete the Land Registry Book (*Libro Fondiario*) under Regional Law No. 15/2010 to inscribe in public boards the following immovable properties included within the boundaries of the Northern Free Port, namely said the Old Free Zone (*Punto Franco Vecchio*) of Trieste, and bounded to this use under a constrain established under the Treaty:

1) in the *comune censuario* - census district of Trieste:

abstract of map TRIESTE/A - Foglio 10, c.c. di Trieste:

[omissis...]

abstract of map TRIESTE/A – Foglio 6, c.c. di Trieste:

[omissis...]

abstract of map TRIESTE/A – Foglio 3, c.c. di Trieste:

[omissis...]

2) in the *comune censuario* - census district of Gretta:

abstract of map TRIESTE/I – Foglio 8, c.c. di Gretta

[omissis...]

3) in the *comune censuario* - census district of Barcola:

abstract of map Trieste/C – Foglio 12, c.c. di Barcola

[omissis...]

All with the registration of the right of ownership of the

“Demanio dello Stato del Territorio Libero di Trieste – Porto Franco internazionale di Trieste”

“State Property of the Free Territory of Trieste – international Free Port of Trieste”

in force and in execution of articles 21 points 1 and 2 of the Treaty of Peace of Paris of 10 February 1947, of articles 1 and 2 of Annex X, of article 34 of Annex VI and of articles 2, points 1 and 3 as well as 3 point 1 of Annex VI of the same treaty.

and with the inscription, consisting in the registration, attributing to each of the properties requested to be inscribed on public tables, of the following rights, legal acts and facts, by virtue of the legal titles activated:

1. the exclusive and full, permanent destination of the area and of the buildings to the uses, prohibitions, administrative constraints, obligations and rights *in rem* of third parties that are established under Annex VIII – Instrument for the Free Port of Trieste of the Treaty of Peace of Paris between the Allied and Associated Powers and Italy, signed at Paris on 10 February 1947, in particular:

a) under articles 1, 5, 6 and 7 of Annex VIII, the exclusive destination of the immovable properties as customary Free Port destined to be used “on equal terms by

all international trade and by Yugoslavia, Italy and the States of Central Europe, in such manner as is customary in other free ports of the world”, with the international regime governed by the provisions of Annex VIII itself, which clearly includes the activities of warehousing, storing, examining, sorting, packing and repacking and similar activities, as well as the procession of goods and authorizes manufacturing activities (taking into account that “Yugoslavia” now refers to its Successor States);

b) under articles 5 and 10 of Annex VIII, the right of **b)** under articles 5 and 10 of Annex VIII, the right of the rights of merchant vessels and goods of all Countries of the world, therefore extended to all the enterprises which carry on their maritime traffic, trade, transformation - processing - and industrial activities of the unrestricted access to the Free Port for loading and discharge both for goods in transit and goods destined for or proceeding from the Free Territory without the levy on such goods customs duties or charges other than those levied for services rendered.

c) under articles 3 point 2 and 5 point 2 of Annex VIII, the prohibitions to establish special zones in the Free Port under the exclusive jurisdiction of any State, as well as the prohibition to discriminate on the nationality of the vessels, the ownership of the goods or on any other grounds when it comes to determinate and receive the pertinent rights and fixing and levying harbor dues and other charges in the Free Port;

d) under article 3 points 3 and 2 of Annex VIII, the right of Italy and of Yugoslavia to request and obtain, if allowed, the exclusive use of berthing spaces within certain parts of the area of the Free Port (taking note that here the name “Yugoslavia” refers to its Successor States);

e) under article 11, point 2 of Annex VIII, the right of the citizens of any State who are engaged in any legitimate pursuit in the Free Port to access it without unduly impediments;

f) under article 18 of Annex VIII, the exclusive powers of administration of the international Free Port of Trieste and, with it, of immovable properties, assigned to the Director of the Free Port referred to Article 18, as part of the provisions of the State legal order and of the executive and jurisdictional bodies of the Free Territory of Trieste and with the power to control the management of the Free Port which are assigned to the International Commission referred to Articles 21, 22 and 23 of Annex VIII, consisting in the representatives of the following States: the Free Territory of Trieste, France, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the United States of America, the People's Federal Republic of Yugoslavia, Italy, Czechoslovakia, Poland, Switzerland, Austria and Hungary, to have its seat and offices in the Free Port and exempt from local jurisdiction (taking note that the names “Union of Soviet Socialist Republics”, “People's Federal Republic of Yugoslavia”, “Czechoslovakia,” now refer to their successor States);

g) under article 22 of Annex VIII, the right of the International Commission in charge of the administration of the Free Port referred to in Articles 21, 22 and 23 of Annex VIII, consisting in the representatives of the following States: the Free Territory of

Trieste, France, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the United States of America, the People's Federal Republic of Yugoslavia, Italy, Czechoslovakia, Poland, Switzerland, Austria and Hungary, to have its seat and offices in the Free Port and exempt from local jurisdiction (taking note that the names "Union of Soviet Socialist Republics", "People's Federal Republic of Yugoslavia", "Czechoslovakia," now refer to their successor States);

h) under article 24 of Annex VIII the obligation to subject to the procedures of resolution envisioned in Article 24 of the same annex any dispute relating to the interpretation or execution of the provisions of Annex VIII of the Treaty of Peace concerning the regime and consistency of the international Free Port of Trieste and its areas.

SPECIAL PUBLICITY OF THE PROCEDURE

In respect of the international bodies and of the States holding, *ex lege* rights over the public properties subject to this request.

The unusual nature of the present request to complete the Land Registry Book requires taking into account the problem of publicity in respect to the States holding rights on the properties subject to the request, which cannot be considered informed of it by the mere publication on the *Bollettino Ufficiale della Regione* (Official Bulletin of the Region).

The Treaty of Peace, Annex VIII assigns, for this purpose, the rights of use of the immovable properties for port activities of an international Free Port to all States, special rights to Yugoslavia (successor States) and Italy, as well as rights to control its management and to reside (registration) to the Member States of the International Commission (and their successors) in persona of their representatives.

Additionally, among the subjects involved there is the United Nations Security Council ad international guarantor, by law, of the Free Territory of Trieste (article 21, point 1 of the Treaty of Peace, UNSC Resolution No. 16/1947).

Therefore, the applicants request that the Commissar for the completion of the Land Registry Book informs those subjects, by the means that he considers most suitable, as long as those means are proved effective and efficient, and by the following means and addresses:

a) **the Security Council of the United Nations** represented by its President *pro tempore*, at its office building in 405 East 42nd Street on the South, New York NY 10017, USA, as direct international guarantor of the Free Territory of Trieste (UNSC Resolution No. 16/1947; Treaty of Peace with Italy of 10 February 1947, Article 21, point 1).

b) **the General Assembly of the United Nations** represented by its President *pro tempore*, at its office building in First Avenue at 46th Street, New York NY 10017,

USA, to inform, through it, all the Member States, about their role as they hold the rights *in rem* to be registered on the properties that are requested to be registered, precisely, the right of these States and their enterprises to use on equal terms of the areas of the Free Port for their vessels, goods and all the activities relating to trading, manufacturing - processing of goods - and industrial activities in a regime of fiscal exemption therein permitted;

c) **the General Assembly of the United Nations** represented by its president *pro tempore* at its international head office in First Avenue at 46th Street, New York 10017, USA, to inform, through it, to all Member States, for they bear rights on the properties to be registered, precisely, of the equal rights of all States and their enterprises to use without discriminations the areas of the international Free Port of Trieste for their ships, their goods and for all activities of trade, manufacturing - processing of goods - with the tax exemption permitted in these areas.

d) **the Governments** of the Countries holding the right to be *ex officio* members of the International Commission in charge of supervising the management of the international Free Port of Trieste, and to have their seats and offices in the Free Port exempt from local jurisdiction, to be informed at their representation offices in Italy:

- United States of America, Embassy, 00187 Rome, Via Vittorio Veneto 119/a;
- United Kingdom of Great Britain and Northern Ireland, Embassy, 00187 Rome, Via XX Settembre 80/a;
- France, Embassy, 00186, Rome, piazza Farnese 67;
- Switzerland, Embassy, 00197 Rome, Via Barnaba Oriani 61;
- Austria, Embassy, 00198 Rome, Via g. Pergolesi 3;
- Hungary, Embassy, 00161 Rome, Via dei Villini 12/16;
- Poland, Embassy, 00197 Rome, via P. Paolo Rubens 20
- Lithuania, Embassy, 00198 Rome, Viale di Villa Grazioli 9;
- Latvia, Embassy, 00198 Romae, via G. B. Martini 13;
- Estonia, Embassy, 00198 Rome, viale Liegi 28, int. 5;
- Czech Republic, (as Successor State of Czechoslovakia), Embassy, 00192 Rome. Via dei Gracchi 322;
- Republic of Slovakia, (as Successor State of Czechoslovakia), Embassy, 00135 Rome. Via dei Colli della Farnesina 144;
- Russia (as Successor State of the USSR), Embassy, 00185 Rome, via Gaeta 5;
- Belarus, (as Successor State of the USSR), Embassy, 00141 Rome, via delle Alpi Apuane 16;
- Ukraine, (as Successor State of the USSR), Embassy, 00198 Rome, via Guido d'Arezzo 9;
- Kazakhstan, (as Successor State of the USSR), Embassy, 00189 Rome, via Cassia 471;
- Slovenia (as Successor State of Yugoslavia), Embassy, 00197 Rome. Via Leonardo Pisano 10;
- Croatia (as Successor State of Yugoslavia) Embassy, 00191 Rome. via L. Bodio 74/76;
- Bosnia–Herzegovina (as Successor State of Yugoslavia), Embassy, 00195 Rome. Piazzale Clodio 12/III;

- Serbia (as Successor State of Yugoslavia), Embassy, 00197 Rome, via dei Monti Parioli 20;
- Montenegro (as Successor State of Yugoslavia), Embassy, 00197 Rome. via A. Gramsci 9;
- FYROM (as Successor State of Yugoslavia), Embassy, 00198 Rome, viale Bruxelles 73-75;
- Italia, *Presidenza del Consiglio dei Ministri*, 00187 Rome, Palazzo Chigi - piazza Colonna 370;

3) to the competent and responsible offices.

DOCUMENTS

A) Documents previously lodged: for the purposes of the present request, we recall in full the document previously lodged, annexed to previous request No. 3/COMP/15 and precisely:

1. The legal titles activated:

a) United Nations Treaty Series, Volume 49 – 1950, N° 747, Treaty of Peace with Italy, signed at Paris, on 10 February, 1947, and abstract from Volume 50 – Maps: C. - Yugoslav-Italian frontier; D. - Frontiers of the Free Territory of Trieste;

b) Laws and communication of ratification and execution of the Republic of Italy, published on the Italian Official Gazette: Law No. 811 of August 3rd, 1947 - Official Gazette No. 200 of 2.9.1947; Note of the Minister of Foreign Affairs in Official Gazette No. 231 of 3.10.1947; DLCPS No. 1430 of 28 November 1947, Ordinary Supplement of Official Gazette No. 295 of 24.12.1947; Law No. 3054 of 25 November 1952, Official Gazette No. 10 of 14.1.1953;

2. UN Security Council – Resolution No. 16/1947;

3. Map of the Free Zones in 1930;

4. Sample of a registration in the Land Registry under the name of “Demanio del Territorio Libero di Trieste” - “State Property of the Free Territory of Trieste”, renewed since 1995 and in force;

5. Abstract of cadastral maps referring to the above listed properties that are requested to be registered:

- in the census district of Trieste, TRIESTE/A - Foglio 10; TRIESTE/A - Foglio 6; TRIESTE/A - Foglio 3;
- in the census district of Grotta, TRIESTE/I - Foglio 8;
- in the census district of Barcola TRIESTE/C - Foglio 12.

B) New documents: with the present question are lodged the new documents recalled and analyzed in the premise, precisely:

6. Decision V.G. No. 67/2015 of 19 June 2015 of the Court of Appeal of Trieste and the consequent decree of the Land Registry Judge of 1 July 2015, as notified to the petitioners on 30 July 2015.

7. "*Verbale di individuazione della nuova dividente demaniale*" (Minute of the identification of the new state-owned share) dated 9.VII.2015

8. Map attached to the above mentioned "Minute of the identification of the new state-owned share" dated 9.VII.2015

C) Further documents: the petitioners reserve to produce further pertinent documents requested by the Commissar or that they consider suitable for the purpose.

Trieste, 11 August 2015.

The petitioners:

Roberto Giurastante

Paolo G. Parovel