

(Copy - abstract for the press conference of March 14th, 2015)

TAX COMMISSION OF THE PROVINCE OF TRIESTE

proceeding R.G. 484/2012
hearing of March 17th, 2015

Appellant: Roberto Giurastante, personally, address for service at the Free Trieste Movement - *Movimento Trieste Libera*, currently in Piazza della Borsa 7, certified email: movimentotriestelibera@pec.it;

Defendant: Equitalia Nord S.p.A. with legal seat established in Milano, represented by the chief executive and legal representative Giancarlo Rossi and, as his representative, special prosecutor Daria Apollonio, both represented and defended by lawyer Isabella Passeri of the Court of Trieste.

Clarification and further proposal of the exception of jurisdiction of the State of Italy, in favor of the jurisdiction of the Italian Government as temporary, special trustee of the Free Territory of Trieste under a mandate of the Security Council of the United Nations.

This document is sent, for a matter of competences, also to ***

whereas

that *ab origine* of this proceeding the main exception - repeated at any further resumption - for it to be preliminarily recognized by this Court of Justice, the exception of the absolute lack of jurisdiction of the Republic of Italy over the Free Territory of Trieste and its legal entities - being these either natural persons and so citizens *de iure* or legal persons, either public or private: enterprises, companies and corporations, including the International Free Port of Trieste;

that the jurisdiction over said subject does, in facts, exclusively and temporarily belong to the Italian Government for its role of special, temporary trustee of the Territorio Libero di Trieste – Svobodno Tržaško Ozemlje – Free Territory of Trieste assigned by the Security Council of the United Nations, assigned to it with the Memorandum of London of 1954, in force, which executes the Treaty of Peace of Paris of February between the Allied and Associated Powers and Italy;

that consequently, when it comes to the Free Territory of Trieste, this trusteeship jurisdiction is, at the same time, under the domestic and international guarantee of both the Security Council of the United Nations and the Signatory States of the Treaty of Peace, but also under the guarantee of the Constitution of the Republic of Italy, since at Article 10, sub-paragraph 1 and at Article 117, sub-paragraph 1, it binds the legal system of Italy to conform to the generally recognized principles of international law and legislative powers in the State and the Regions to comply with constraints deriving international obligations;

that the duties of the Italian Government as Government of the Republic of Italy and as special, entrusted provisional Government of the Free Territory of Trieste under an international mandate are legally and practically different and must clearly be exercised differently, conducting the administrations of the two Sovereign States clearly separate and without causing either confusion between sovereignty, jurisdiction, civil rights, property rights, State property and resources, or conflicts of interests;

that under the general legal principle of lack of jurisdiction is a preliminary, ineluctable exception that can be recognized even *ex officio* and in any phase of the proceeding, since it leads to the absolute impossibility *ab origine* for the court to take any legal decision but the recognition of the lack of jurisdiction itself, which is raised before it for this purpose, since the objected jurisdiction does not simply belong to another Court, but to a different judicial system which, as for this specific case, is that of a State under special temporary administration, and therefore to its jurisdictional bodies;

that the above mentioned State Court system is that of the Free Territory of Trieste, and the bodies with jurisdiction on it are the Italian Government as special, temporary civil administrator and the subordinated Courts it must correctly and rightfully establish to exercise the jurisdiction (either civil, criminal, administrative, fiscal) of the Free Territory of Trieste as a State administered under a trusteeship mandate;

that the Italian Government, in fulfillment of the duties as temporary civil administrator of the Free Territory of Trieste has delegated a specific officer, the *Commissario generale del Governo nel Territorio di Trieste* (General Commissar of the Government in the Territory of Trieste) to execute that, and the powers and duties of this officer have been maintained and, with Constitutional Law No. 1/1963, these were transferred to the Commissar of Government as special powers and duties, for the officer to continue exercising said powers and special duties by issuing measures with the status of legislative and administrative acts within the Free Territory under administration, especially in regard to the international Free Port of Trieste;

that the exception of the lack of jurisdiction, being a primary question before the Court, must be primarily examined and answered, pending the nullity of the proceeding and that any decision on the matter may be subject to a right of appeal and impugned before any competent authority - on both national and international law;

that the exception of the lack of jurisdiction raised before this Court is perfectly founded *de iure*, on both special and general laws, in force and implemented in the international legal system, in that of the Free Territory of Trieste and also in that of the Republic of Italy, which does also subject said laws to constitutional constraints;

that this question does not only regard the legitimate interests of the appellant, but also and primarily these of all the citizens and enterprises of the Free Territory of Trieste, as these are economically and morally exhausted by the illegal imposition of the ruinous legal, political, economic and fiscal system of the State of Italy, which the entrusted Government allows and favors in spite of the legal obligation to prevent it;

that, for said reasons, the Free Trieste Movement, of which the appellant is the legal representative due to his role of President in office, on June 19th, 2013 notified to Italian Authorities, including judicial authorities, acting within the Free Territory of Trieste as representatives or bodies of the Republic of Italy instead of upon a mandate issued by the Italian Government as temporary civil trustee, an “Urgent act of complaint and notice of default” a copy of which is annexed to the present document, with all legal consequences, and as integral part of the present act (*annex 1*);

that on December 19th, 2014, the appellant in person, the same way as an increasing number of other citizens who belong to the Free Trieste Movement did notify to the same Italian Authorities, including judicial authorities, the “Eccezione sulla giurisdizione presentata dai cittadini di diritto del Free Territory of Trieste – Territorio Libero di Trieste – Svobodno Tržaško Ozemlje ai fini di autotutela nei procedimenti amministrativi, giudiziari e tributari” (*Exception of jurisdiction presented by the citizens de iure of the Free Territory of Trieste - Territorio Libero di Trieste – Svobodno Tržaško Ozemlje for the purpose of self-defense in administrative, judicial and tax proceedings*) a copy of which is annexed to the present document, with all legal consequences, and as its integral parts (*annex 2*);

that, against all of this, the defendant of the complained party Equitalia S.p.A, Lawyer Passeri, in her counter deductions limited herself to state, against the truth and without any evidentiary argument, that the exception of jurisdiction raised by the appellant and supported with legal references to laws in force - both in the Italian and international legal system - would instead be «*manifestly unfounded*», «*without any actual confirmation of legal nature*» and «*truly unfounded*», to the point of questioning the very pertinence of the general and specific obligations assigned to the Republic of Italy and to the Italian legislator by Article 10, sub-paragraph 1, and Article 117, sub-paragraph 1, of the Constitution of the Republic of Italy;

that this disregard for the legal system of the Free Territory of Trieste, for international law and for the very Italian law is inadmissible and offensive in behalf of a concessionaire in charge of the collection, usually conducted by ruthless means, of the taxes of the Republic of Italy, which are already enormous and ruinous for its own citizens and which the State of Italy has no right to demand and collect from the citizens *de jure* and from the enterprises of the Free Territory of Trieste, therefore, this imposition and collection is an infringement which does clearly constitute ground for criminal proceedings for the crimes of fraud and extortion;

that preventing the continuation of this very serious fiscal infringement against the citizens and enterprises of the Free Territory of Trieste is also a Constitutional-legal obligation of all the bodies and public officers of the Republic of Italy with the power to do that;

that therefore, this legal obligation does primarily fall under the competences and regard the Italian fiscal, tax-raising and judicial bodies, as well as the concessionaires of the collection of these taxes, and it does also fall under the criminal liability of each of the individuals in charge of said actions, as they cannot be considered unaware – especially not since they have been correctly informed with motivated and documented acts, and

since they have the institutional duty to keep it into account – of the current legal status of the Free Territory of Trieste as a sovereign State, nor of the consequent rights of its citizens and enterprises;

that taking legal action to put an end to this fiscal violation, which is ruinous for the citizens and enterprises of the Free Territory of Trieste, is an essential part of the civil and moral obligations of any citizen *de jure* of the Free Territory, in defense of their own legitimate interest and of the whole Triestine community,

the appellant

precises and repeats, as part of this proceeding, the exception of jurisdiction s for both the above mentioned and following terms, inviting this Tax Commission to take that into account with the carefulness, thoroughness and objectivity that should be proper of its role and responsibilities,

at the same time, refers the matter

to the Commissar of Government of Region Friuli Venezia Giulia, by sending forward the present act and a covering letter, for them to take all pertinent measures falling under their competences, as this is the officer currently delegated to exercise, and *de facto* if does already exercise, the special powers of temporary civil administration of the Free Territory of Trieste conferred to them by the Italian Government under the Memorandum of Understanding of London of 1954 - in force - which is an executive instrument of the Treaty of Peace of Paris of 1947,

and declares

forthwith that, as citizen *de iure* of the Free Territory of Trieste he will only consider valid and comply with fiscal dispositions issued by the Courts and executives - or their subordinates - which are legitimately and expressly delegated by the Italian Government as special temporary trustee of the Free Territory of Trieste and who are authorized to exercise their functions in accordance with the legitimate legal order of the Free Territory itself.

The appellant précises that the following legal evidences are abstracts from a more detailed document, which he reserves himself to submit:

1. International norms that established the Free Territory of Trieste and its International Free Port.

(omissis)

2. Establishment and recognition of the Free Territory of Trieste as a State since September 15th, 1947.

(omissis)

3. State requirements of the Free Territory of Trieste.

(omissis)

4. Recognition of the Free Territory of Trieste as a State by Italy.

(omissis)

5. The settlement of the Government bodies of the Free Territory of Trieste at the coming into force of the Treaty of Peace.

(omissis)

6. The special, temporary trusteeship mandate for the provisional Government of the Free Territory of Trieste.

(omissis)

7. Powers and duties of the provisional Government.

(omissis)

8. The temporary trusteeship government of the Free Territory of Trieste.

(omissis)

9. The trusteeship mandate of temporary provisional Government entrusted to the Italian Government.

(omissis)

10. The obligations of the Italian Government as civil trustee.

(omissis)

11. The subjects in charge of the execution of the obligations of the Italian Government as trustee and the parties who are legitimized to claim that.

(omissis)

12. Delegation of the civil trusteeship to a General-Commissar of Government for the Territory of Trieste.

(omissis)

13. Transfer of the powers of the General Commissar of Government to the Commissar of Government in Region Friuli Venezia Giulia and their ongoing exercise to this day.

(omissis)

demands

that this Tax Commission of the Province of Trieste:

a) verifies with a correct investigation and then declares the lack of jurisdiction of the Republic of Italy over the Free Territory of Trieste, in favor of the jurisdiction of the Italian Government as temporary trustee, under and in execution of the Memorandum of Understanding of London of 1954 and in fulfillment of the Treaty of Peace of Paris of 1947 - both in force;

b) verifies and declares, due to that, its legal impossibility to take any other decision and to discuss into the merit the present proceeding No. R.G. 484/2012 without receiving the mandate for that from the Italian Government, either directly or through its delegate, the Commissar of Government, as temporary civil trustee of the Free Territory of Trieste;

c) demands, for these reasons and with a formal act, that the entrusted Italian Government, through the competent Commissar of Government, takes care of providing to this very Commission the jurisdictional powers required to exercise its duties in the Free Territory of Trieste and towards its citizens *de iure* and its enterprises;

that the Commissar of the Italian Government in Regione Friuli Venezia Giulia, who was addressed separately takes care, as part of the rightful exercising of their powers of trusteeship over the Free Territory of Trieste, that the Tax Commission of the Province of Trieste is provided with the jurisdictional powers it needs to exercise its duties in the Free Territory of Trieste and towards its citizens *de iure* and its enterprises;

invites

through the present act, deposited before the Court, the complained party, Equitalia S.p.A., for its role of concessionaire of Italy as for the collection of taxes:

a) to take into account, in self-defense, the lack of jurisdiction of the Republic of Italy over the Free Territory of Trieste, in favor of the jurisdiction of the Italian Government as temporary civil trustee under and in execution of the Memorandum of Understanding of London del 1954 and of the Treaty of Peace of Paris of 1947 - both in force;

b) to take into account, in self-defense, that the concession it has received to collect the taxes of the Republic of Italy, of its bodies and its - national and local - administrations even from the citizens *de iure* and the enterprises of the Free Territory of Trieste, as for this part, is legally null and void as it was released in spite of the lack of jurisdiction and, therefore, *a non domino*;

c) to immediately suspend, in self-defence, the collection of taxes of the Republic of Italy, its bodies and - national or local - administrations from the citizens *de iure* and the enterprises of the Free Territory of Trieste, as these very taxes are illegal for the above mentioned, until the entrusted Italian Government takes care to rightfully establish the

regime of special trusteeship, separate from the administration of the Republic of Italy even when it comes to the fiscal regime, taxation, the establishment and collection of taxes;

confirms

that as citizen *de iure* of the Free Territory of Trieste he will only consider valid and comply with fiscal dispositions issued by the Courts and executives - or their subordinates - which are legitimately and expressly delegated by the Italian Government as special temporary trustee of the Free Territory of Trieste and who are authorized to exercise their functions in accordance with the legitimate legal order of the Free Territory itself, and

notifies

the present motivated requests to the Security Council of the United Nations, to the delegations of its permanent Member States at to the Signatory States of the Treaty of Peace of Paris of 1947, as protectors of the sovereignty and independence of the Free Territory of Trieste, as well as to all the Countries holding special rights as for the use and management of the International Free Port of the Free Territory of Trieste.

Trieste, March 6th, 2015.

Roberto Giurastante

(two annexes as stated above)