



- 1) **To the Director-general of Equitalia S.p.A**
- 2) **Al director of Equitalia Nord**
- 3) **To the Director-general of the Italian *Agenzia delle Entrate* - Tax Revenue Office**
- 4) **To the director of the Tax Revenue Office in Trieste**
- 5) **To the Commissar of the Italian Government in Trieste**
for the powers and duties established at art. 70 of Italian Constitutional Law 1/1963
- 6) **To the Prosecutor of the Republic in Trieste**
for the mandatory prosecution and punishment of all crimes denounced
- 7) **To the Prosecutor of the Court of Accounts in Trieste**
- 8) **To the President of the INPS, Tito Boeri**
- 9) **To the International Provisional Representative of the Free Territory of Trieste (IPR FTT)**
to activate the pertinent international defences

**ADMINISTRATIVE AND CRIMINAL COMPLAINT
VERSUS THE RESPONSIBLE PERSONS OF
“GRUPPO EQUITALIA”**

The Free Trieste Movement, as legal subject that represents legitimate interests of the citizens, residents, and enterprises of the present-day Free Territory of Trieste, entrusted to the Italian Government under a mandate of temporary civil administration,

makes it clear that:

1. Italian law No. 228/2012 (State budget) establishes, at paragraphs 537 and 538 of article 1, that the concessionaires of tax collection must suspend it whenever the alleged debtor (natural or legal person) present to the concessionaire, either by mail or email, declaring and demonstrating on their own civil and criminal liability, that the documents issued by the creditor before the inclusion in a tax roll, or the successive payment demand, or the payment notification were affected by one of the following conditions:

- a) time bar or loss of the entitlement to recede the payment before its inclusion in a tax roll;
- b) remission, decided by the creditor;
- c) administrative suspension, granted by the creditor;
- d) judicial suspension or judgment of total or partial cancellation of the credit;
- e) payment received by the creditor before the inclusion of the debt in a tax roll.
- f) any other cause of non-enforceability of the collection of the debt.

2. The law does not provide that the concessionaire of tax collection accepts such declarations only on specific forms. The alleged debtor, therefore, can lodge their declaration through a free text, as long as that meets the requirements of the law.
3. The main concessionaire of tax collection on the whole territory of the State of Italy, excluding Sicily, is state-owned company Equitalia S.p.A. 51% of the shares in which belong to the Italian *Agenzia delle Entrate* (Tax Revenue Office) while the other 49% belongs to the INPS (Italian social security institute). Its related companies altogether (Equitalia Nord, Centro, Sud, Giustizia, Servizi) constitute the so-called “Gruppo Equitalia”.
4. The *Gruppo Equitalia* does illegally force the taxpayers to present the declarations to suspend the enforced recovery using (2016) a specific standard form that is printed, distributed and published on line by the Group itself on its own website, at link: <https://www.gruppoequitalia.it/equitalia/opencms/it/modulistica/Sospensione/> (See the original Italian copy attached sub 1).
5. Such form arranged by *Gruppo Equitalia* is deliberately deceptive, because it does not include, among the reasons to suspend the enforced recovery, point f) of paragraph 538 of article 1 of Italian Law 228/2012, concerning «*any other cause of non-enforceability of the collection of the debt*».
6. By the mean of this double deception (mandatory form and omission) the Equitalia Group does factually prevent alleged debtors from stopping the enforced recovery of a wide category of legitimate causes that prevent such actions.
7. In this case, the enforced recovery of the alleged debt by the concessionaire who has maliciously prevented to invoke legitimate causes of non-enforceability and the legitimate suspension of such actions is *ipso facto* unfair and illegal, giving raise to the criminal violations of malfeasance in office, abuse of office, extortion, and fraud (articles No. 323, 317, 623, 640 of the Italian Criminal Code).
8. The deceptive form drafted and forced by Equitalia does as well give raise to the offence of ideological falsehood defined at article 479 of the Italian Criminal Code, since it is a public act with which the concessionaire of tax collection, which is a public officer (articles 357 and 358 of the Italian Criminal Code), does falsely inform the people involved in legal questions with facts of which its act shall proof the truthfulness.
9. These criminal aspects are worsened by the fact that the concessionaire makes an unlawful profit from that, as well as by the nature of the damage caused to the alleged debtor, since unfair enforced recovery deprives them by force of belongings and movable or immovable properties that are vital to them, like earnings or savings, their home, business, all of which is re-allocated in the Italian treasury, either directly or with auction procedures, for the gain of third parties.
10. The “other cause of non-enforceability of the collection of the debt” related to taxation that are deceptively eluded by Gruppo Equitalia with those means do include, along with the ordinary cases subject to Italian law, also the special case of the

illegitimacy of the imposition and collection of direct and indirect taxes of the Republic of Italy in the present-day Free Territory of Trieste, which is established since 1947 as a sovereign State under a provisional regime of Government, currently entrusted to the responsibility of the Italian Government (not of the State of Italy).

11. This legal status of the Free Territory of Trieste is established and recognized by the following, main instruments of international and Italian law: UNSC Resolution S/RES/16 (1947); Treaty of Peace with Italy of 10 February 1947, artt. 4, 21, 22, 48 No. 5, 78 No.7, 79 No. 6 g, 85 and Annexes I D, VI, VII, VIII, IX, X; Law 811/1947, Legislative Decree of the Temporary Head of State No. 1430/1947, Law No. 1630/1948; Law No. 3054/1952; Memorandum of Understanding of London of 5 October 1954 regarding the Free Territory of Trieste (see also: UNSC doc. S/2015/809); Constitution of the Republic of Italy, article 10, paragraph 1 and article 117, paragraph 1.

12. Pursuant those legal instruments in force, the Free Territory of Trieste, entrusted to the Italian Government under a mandate of temporary civil administration:

a) is exempted from the payment of the Italian public debt (Treaty of Peace, Annex X, article 5; Italian laws of ratification and execution of the treaty, Italian Constitution articles 10 and 117), which therefore it is illegitimate charging, directly or indirectly, in whatever share or form, to natural or legal persons in the Free Territory of Trieste;

b) cannot be directly subject to laws of the Republic of Italy, including laws on taxation, whenever and as long as those laws are not extended and adapted to the legal system of the Free Territory with appropriative normative acts of the provisional Government or by a Commissar delegated by it for this purpose (Decree of the President of the Republic of Italy of date 27 October 1954; Italian Constitutional Law No. 1/1963, art. 70).

This condition of applicability does apply also to Italian citizens who reside in the Free Territory (see: Italian Supreme Court of Cassation I Civil Section, judgment No. 353 of 16 February 1965: wealth tax «Since legislative decree No. 143 of March 29th, 1947, establishing the extraordinary progressive income tax, has not been extended to the Free Territory of Trieste, Italian citizens residing there at March 18th, 1947 cannot be subject to this tax, regardless of the circumstances that their properties are, wholly or in part, outside the Free Territory of Trieste.»).

c) cannot be subject anyways to taxes or tributes of the State of Italy, which is a third Country, or to taxes and tributes that are destined to the State budgets of the Republic of Italy instead of to the bodies for the temporary civil administration of the Free Territory of Trieste, entrusted to the Italian Government.

13. To defend themselves from said illegitimate Italian taxes and their collection, the Free Trieste Movement and an increasing number of citizens, residents and enterprises of the present-day Free Territory of Trieste started, since June 2015, to present a specific “Declaration of Tax Objection with reasons” (see the English version attached sub 2) sent to the Commissar delegated by the Italian Government to exercise the main normative powers of the provisional administration, including those on the matter of

taxation (see: Decree of the President of the Republic of Italy of 27 October 1954; Italian Constitutional Law No. 1/1963, art. 70).

14. The “Declaration of Tax Objection with reasons” in an official act notified to the protocol office, which requests to the Commissar of the provisional Government to re-establish legal certainty in the fiscal legislation of the Free Territory of Trieste with normative acts that establish which are the Italian taxes that can be levied, and the means and rates to do it, in the present-day Free Territory of Trieste under administration. The appellants do also declare their right to impugn and suspend the payment until the Commissar expresses herself on the matter.

15. These request notwithstanding, the Commissar of the provisional Government has so far held back the measures that would officially clarify the legal situation of the current imposition, collection, enforced recovery of tax claims, both direct and indirect, of the bodies of the Republic of Italy in the present-day Free Territory of Trieste.

16. By doing so, the Commissar of the provisional Government gave raise to a condition in which the legal certainty of the legislation on taxation is suspended in the administered Free Territory, which therefore invests all citizens, residents, enterprises or bodies of State of the Free Territory itself, including tax authorities and concessionaires of tax collection.

For these reasons

the Free Trieste Movement, represented by the President in office Roberto Giurastante, taking action in the legitimate interest of the citizens, of the residents, of the enterprises and of the bodies of State of the Free Territory of Trieste, as well as in solidarity with those of the bordering Republic of Italy who are damaged by the above mentioned behaviours of the Gruppo Equitalia,

warns

Equitalia SpA, and each company of the “*Gruppo Equitalia*” to recall the deceptive form, with suitable notices and information to public, to substitute it on line and its printed versions with a new one that adheres to the law, as well as to consequently renew all time-limits for the procedures to suspend the enforced recoveries ex article 1, paragraphs 537-544 of Law 228/2012, considering that expired not earlier than 60 days elapsing from the date of release of the new form, as well as to accept regardless to that the declarations presented on free papers when these meet the legal requirements;

invites

the Italian Tax Revenue Office and other Italian collection agencies to monitor the behaviors of Equitalia that we are reporting, therefore confirming, the consequent extensions of the time-limits, as well as to declare the suspension of the collection of taxes of the Republic of Italy in the Territory of Trieste, until the legal measures requests to the Commissar to the provisional Italian Government are issued;

requests

to the Commissar of the provisional Italian Government in Trieste to comply early as possible with the institutional duty to issue the requested normative measures on the matter of taxation;

denounces

to the Prosecutor of the Republic in Trieste the criminally relevant facts described above, requesting the mandatory prosecution and punishment of those held liable or the offences committed or attempted;

taking care

in the meantime, to publish on its own website <http://triestelibera.one> a form to request the suspension of enforced recoveries to substitute the deceptive form provided by Equitalia, as well as to provide a copy to whoever requests it at the main office of the Movement in Trieste, piazza della Borsa 7 (tel. 040 06 41 602), during working hours (from Monday to Friday: 9.30AM - 12PM and 4PM-7PM. On Saturday: 4PM-7PM).

and clarifies

that as for the citizens, residents and enterprises of the present-day Free Territory of Trieste entrusted to the Italian Government under a mandate of temporary civil administration, due to this, are “other causes of non-enforceability of the collection of the debt” claimed in the Free Territory by bodies of the State of Italy in the name of laws of the Republic of Trieste are essentially the following:

a) lack of legal certainty as for the right to request the payment of taxes, since Italian laws advocated to justify said request are not, either completely or partially, rightfully extended to the Free Territory of Trieste entrusted to the Italian Government under a mandate of temporary civil administration (Treaty of Peace with Italy of 10 February 1947, artt. 4, 21, 85 and Annexes VI, VII, VIII, X; Law 811/1947, Legislative Decree of the Temporary Head of State No. 1430/1947, Law No. 1630/1948; Law No. 3054/1952; Memorandum of Understanding of London of 5 October 1954 regarding the Free Territory of Trieste; Decree of the President of the Republic of Italy of 27 October 1954; Constitutional Law No. 1/1963, art. 70; Constitution of the Republic of Italy, article 10 paragraph 1 and article 117, paragraph 1; Italian Supreme Court of Cassation I Civil Section, judgment No. 353 of 16 February 1965; “tax objections” requesting to define legal certainty, presented to the Commissar of the Italian Government in Trieste since June 2015; United Nations Security Council, document S/2015/809);

b) partial impossibility to enforce the collection of the requested sums, concerning the portions that are caused - directly or not - by the Italian public debt or are destined to pay it (Treaty of Peace with Italy of 10 February 1947, art. 21 and Annex X, art. 5; Law 811/1947; Legislative Decree of the Temporary Head of State No. 1430/1947, Law No. 3054/1952);

c) absolute impossibility to enforce, in the present-day Free Territory of Trieste entrusted to the Italian Government under a mandate of temporary civil

administration, the collection of tax credits in the name and on behalf of the Republic of Italy, which is a third State (Treaty of Peace with Italy of 10 February 1947, art 21; Law 811/1947; Legislative Decree of the Temporary Head of State No. 1430/1947; Law 3054/1952; United Nations Security Council, document S/2015/809), and or of its bodies and concessionaires of public services.

Trieste, 11 April 2016

Roberto Giurastante
President of the Free Trieste Movement



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- a) time bar or loss of the entitlement to recede the payment before its inclusion in a tax roll;
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2. The law does not provide that the concessionaire of tax collection accepts such declarations only on specific forms. The alleged debtor, therefore, can lodge their declaration through a free text, as long as that meets the requirements of the law.

3. The main concessionaire of tax collection on the whole territory of the State of Italy, excluding Sicily, is state-owned company Equitalia S.p.A. 51% of the shares in which belong to the Italian *Agenzia delle Entrate* (Tax Revenue Office) while the other 49% belongs to the INPS (Italian social security institute). Its related companies altogether (Equitalia Nord, Centro, Sud, Giustizia, Servizi) constitute the so-called “Gruppo Equitalia”.

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8. The deceptive form drafted and forced by Equitalia does as well give raise to the offence of ideological falsehood defined at article 479 of the Italian Criminal Code, since it is a public act with which the concessionaire of tax collection, which is a public officer (articles 357 and 358 of the Italian Criminal Code), does falsely inform the people involved in legal questions with facts of which its act shall proof the truthfulness.

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10. The “other cause of non-enforceability of the collection of the debt” related to taxation that are deceptively eluded by Gruppo Equitalia with those means do include, along with the ordinary cases subject to Italian law, also the special case of the

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b) partial impossibility to enforce the collection of the requested sums, concerning the portions that are caused - directly or not - by the Italian public debt or are destined to pay it (Treaty of Peace with Italy of 10 February 1947, art. 21 and Annex X, art. 5; Law 811/1947; Legislative Decree of the Temporary Head of State No. 1430/1947, Law No. 3054/1952);

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administration, the collection of tax credits in the name and on behalf of the Republic of Italy, which is a third State (Treaty of Peace with Italy of 10 February 1947, art 21; Law 811/1947; Legislative Decree of the Temporary Head of State No. 1430/1947; Law 3054/1952; United Nations Security Council, document S/2015/809), and or of its bodies and concessionaires of public services.

Trieste, 11 April 2016

Roberto Giurastante
President of the Free Trieste Movement

A handwritten signature in black ink, appearing to read 'R. Giurastante', with a horizontal line extending from the end of the signature.