



To the Commissar *pro tempore* of the Italian Government

in Region Friuli Venezia Giulia

as delegate of the powers of special trusteeship

over the Free Territory of Trieste and over its international Free Port

Francesca Adelaide Garufi

and, through them:

to the President *pro tempore* of the Council of Ministers

of the Italian Government, as special trustee

of the Free Territory of Trieste and over its international Free Port

and, for information:

To the Security Council of the United Nations

represented by the President *pro tempore*

To the President of the European Parliament

as for the controversy procedure opened with
the petition of 4 June 2015

FORMAL INVITATION TO COMPLY WITHIN 90 DAYS TO THE OBLIGATIONS ESTABLISHED UNDER INTERNATIONAL AND ITALIAN LAW IN REGARD TO THE FREE TERRITORY OF TRIESTE, OF ITS CITIZENS AND RESIDENTS, ITS ENTERPRISES AND ITS INSTITUTIONS, PRECISELY:

1) Invitation to recognize and declare legally ineffective, within 90 days, in the current Free Territory of Trieste – Territorio Libero di Trieste – Svobodno Tržaško Ozemlje and in its international Free Port all the norms of Italian civil law, on fiscal and other matters, that have been or are enforced without prior extension to it by the Commissar of Government, specifically delegated by virtue of the mandate of temporary civil administration entrusted to the responsibility of the Italian Government, or extended to it in breach of both the obligations assumed under this mandate and the Constitutional Legal Order of the Republic of Italy.

2) Invitation to issue a preliminary order of IMMEDIATE SUSPENSION, until the issuing of the measures mentioned above at point 1) of all fiscal connection, of all executive proceedings involving movable or immovable properties and of all civil proceedings concerning expropriations, evictions or of any kind that might cause irreversible damages at the expenses of the citizens, residents, enterprises and institutions of the current Free Territory of Trieste - Territorio Libero di Trieste – Svobodno Tržaško Ozemlje and of its international Free Port as a result of the enforcement of the above mentioned provisions of Italian law that were not validly extended to it or were extended in breach of the obligations established under the mandate of temporary administration, as well as of Italy's own legal system.

3) Invitation to take action, within 90 days, to re-establish the financial and fiscal administration of the current Free Territory of Trieste - Territorio Libero di Trieste – Svobodno Tržaško Ozemlje and of its international Free Port, separated and divided from the Administration of the State of Italy, in proper and full implementation of the obligations established under the mandate of temporary civil administration, entrusted to the Italian Government;

4) Invitation to take care, at the same time, to order and obtain from the Republic of Italy the full compliance with international and domestic, Italian obligations they have assumed towards the Free Territory of Trieste.

This invitation, to which all subjects of private, public and international law holding legitimate interests are free to associate, is presented by the Movimento Trieste Libera – Gibanje svobodni Trst – Bewegung Freies Triest – Free Trieste Movement, a political organization with the character of an international subject, which represents the rights and legitimate interests of the citizens *de jure* and of the residents of the current Free Territory of Trieste as well as protecting the interests of all States of the International Community and of the European Union to the full, correct and undisturbed functioning of the international Free Port of Trieste.

The Free Trieste Movements acts by virtue of the mandate of its members and of more than 20,000 signatures it has already collected for this purpose, 15,000 of which, in particular, to address the Security Council of the United Nations, direct international guarantor of the Free Territory of Trieste, to obtain the restoration of its correct special trusteeship, established under Resolution No. 16/1947 of the Security Council and under the Treaty of Peace between the Allied and Associated Powers and Italy, signed in Paris on 10 February 1947.

The urgency of this formal invitation to fulfill and comply with the obligations set out herein is a consequence of the fact that infringement of those obligations committed by Italian Authorities are causing increasing economic, social and vital damages to the Free Territory of Trieste, to its enterprises and to its institutions, pulling them all in the bankruptcy proceedings and abnormal corruptions of the State of Italy.

This invitation is grounded on all international laws in force on this matter and of all norms in legal force with which the Republic of Italy has ratified and executed these, in particular:

- Resolution No. 16/1947 of the Security Council of the United Nations;
- the Treaty of Peace between the Allied and Associated Powers and Italy, signed in Paris on 10 February 1947, articles No. 4, 21, 22, 48 point 5, 78 point 7, 79 point 6 g, 85 and Annexes I D (Frontiers), VI (Permanent Statute), VII (Provisional Regime), VIII (Instrument for the international Free Port), IX (Technical dispositions), X (Economic and Financial Provisions), all in legal

force except the territorial provisions referring to former “Zone B”, which became inapplicable in 1992 under article 30 point 3 of the Vienna Convention on the Law of Treaties (see also: US Department of State, *Treaties in Force*, 2013);

- the Memorandum of Understanding of London signed on 5 October 1954, as an executive instrument of the Treaty of Peace regarding the Provisional Regime of the Free Territory of Trieste, for the part relating to the temporary civil administration, entrusted to the Italian Government, which continues to exercise it through an appointed, delegated Commissar of Government;
- the Italian laws, in force, of ratification and execution of the Treaty of Peace and of execution of the Memorandum of London of 1954: Law No. 811 of August 2nd, 1947, Legislative Decree of the Provisional Head of State No. 1430 of November 28th, 1947; Law No. 3054 of November 25th, 1952; Decree of the President of the Republic of November 27th, 1954, Constitutional Law No. 1/1963, article 70;
- articles 10, sub-paragraph 1 and article 117, sub-paragraph 1 of the Constitution of the Republic of Italy.

This invitation recalls in full also all the acts that have already been notified to the Italian Government and to this Commissar of Government on the matter, especially:

- a) The «*Atto urgente di reclamo e messa in mora // Urgent act of complaint and notice of default*» to the Italian Government of June 18th, 2013.
- b) The «*Diffida internazionale al Governo italiano quale amministratore fiduciario del Territorio Libero di Trieste a dare piena esecuzione alle norme sul regime internazionale e sui registri navali del Porto Franco di Trieste, etc.// Formal international notice to the Italian Government, entrusted with the administration of the Free Territory of Trieste to fully implement the norms concerning the international regime and the naval registers of the Free Port of Trieste etc.*» of September 9th, 2014.
- c) the «*Carta dei Diritti dei Cittadini e delle Imprese del Free Territory of Trieste // Charter of Rights of the Citizens and of the Enterprises of the Free Territory of Trieste*» of May 22nd, 2015.
- d) the **Petition dated 4 June 2015 to the European Parliament and, through it, to the European Commission, which opened a dispute «per violazioni del diritto internazionale e del diritto dell'Unione Europea nei rapporti giuridici, politici ed economici dell'Unione Europea e della Repubblica Italiana verso l'attuale Free Territory of Trieste e verso gli altri Stati dell'UE e della Comunità internazionale // for violations of international law and of the law of the European Union in the legal, political and economic relations of the European Union and of the Republic of Italy toward the current Free**

Territory of Trieste and toward the other Member States of the EU and of the International Community»;

In accordance with the International and Italian laws listed above, this Commissar of the Italian Government (with the subordinate appointment as prefect of Trieste) which, to this day, exercises the legislative powers to issue its own laws or to extend Italian laws with the needed adjustments to the legal order of State of the FTT on the current Free Territory of Trieste and on its international Free Port, as delegate of the entrusted Italian Government, on behalf of the Security Council of the United Nations, holder of the jurisdiction.

Said function of this Commissar of Government is different and separate from the ordinary functions that it exercises on behalf of the Republic of Italy in the Italian provinces (Gorizia, Udine, Pordenone) which form Region Friuli Venezia Giulia, to which were temporarily aggregated for administrative purposes also the Municipalities of the Free Territory of Trieste.

In the exercise of the temporary civil administration of the Free Territory of Trieste and of its international Free Port, the Italian President of the Council of Ministers, its Ministers, the delegated Commissar of Government and the other Italian officers assigned by them to carry out related duties as international officers on behalf of the Security Council of the United Nations, as well as being personally subject of all privileges, obligations and sanctions deriving from such role.

The obligations deriving from this role consist in the execution of the norms of the Treaty of Peace regarding the current Free Territory of Trieste, especially the obligations established as part of the Provisional Regime (Annex VII) including, under article 2, sub-paragraph 3 and 4, the application of all compatible norms of the Permanent Statute, especially when it comes to:

the neutrality and demilitarization of the Free Territory (art.3); its democratic order as for human rights and fundamental freedoms (Article 4) civil and political rights (Article 5); citizenship rights (Article 6); the official languages (Article 7); State insignias (Article 8); the structure and the representativeness of the government bodies (Articles 9 e 29); the principles of Constitutional law (Article 10); proportional representation (Article 12) the independence and the structure of judicial authority (Articles 14, 15, 16); the direct, exclusive dependence on the Security Council (Articles 17 and 25, which includes the principle of international arbitration for the Free Port, established at Article 24 of Annex VIII); the budget (Article 21); foreign relations (Article 24); the criteria for the appointment and Removal of Administrative Officials (Article 26); public security and police forces (Articles 27 e 28); railways (Article 31); the register of Commercial Aviation (Article 32); the Registration of Vessels for the FTT and other States (Article 33); the International Free Port (Article 34); Freedom of Transit for the goods incoming and departing from the Free Port (35); the Interpretation and Amendment of the norms, including the right to petition (Articles 37 and 36).

To the above listed obligations established under Annexes VII and VI, are to be added also those regarding the execution of all provisions of Annex VIII as for the international Free Porto, of Annex IX as for technical dispositions and those of Annex X on economic and financial measures, in particular, as for this, to grant the application of:

- the norms regarding the guarantee of Italian public or private social insurances (art. 7), of the rights to the payment of Italian civil or military pensions (art. 8) and for industrial, literary and artistic rights (art. 18);

- the fiscal provision of article 5 exempts the Free Territory from the payment of Italian public debt: «*The Free Territory shall be exempt from the payment of the Italian public debt.*» (in 1947, due to the war, Italian public debt corresponded to 45% of the del GDP, but in 2014 is rose above 132%, for instance, €32.000 pro capita).

- of the norm on State and demanial property which transfers to the Free Territory of Trieste all Italian State and para-statal properties (article 1), and of the complement norm of Annex VIII, article 2, point 2, which transfers without payment to the Free Port all Italian state and para-statal property within its limits.

The subject and the purpose of the special mandate of temporary civil administration of the Free Territory of Trieste and of its international Free Port, currently entrusted to the Italian Government, and delegated from it to this Commissariat of Government, is therefore the management of the Provisional Regime of the Free Territory of Trieste established under Annex VII of the Treaty, and it includes the obligation to execute also all the applicable norms listed above.

The legislative and administrative powers deriving from this mandate of temporary civil administration can therefore be enforced only in accordance with the provisions of the Treaty of Peace and of its Annexes, and do not allow any act or measure in contrast with them.

The actions of the administering Italian Government or of the Commissar it has appointed which violate said obligations are therefore, *ipso facto*, legally null and void. It does also constitutes a civilly and criminally liable violation of the Italian legal system, which has incorporated said obligations under a constitutional guarantee, which makes them rank higher than domestic Italian laws.

The absolute inapplicability of domestic Italian laws within the current Free Territory of Trieste which are not extended to the legal order of the Free Territory under a legislative measure of the operating temporary civil administration is also recognized by the Italian Supreme Court of Cassation (which has assumed the role of Court of Cassation of the Free Territory under Decree No. 2 of October 29th, 1954 of the Commissar of the provisional Government) I Civil

Section, judgment No. 323 of September 26th, 1965, on fiscal matters and referring also to the Italian citizens residing here:

«Poiché il decreto legislativo 29 marzo 1947, n. 143, istitutivo della imposta straordinaria progressiva sul patrimonio, non è stato esteso al Territorio Libero di Trieste, i cittadini italiani ivi residenti al 28 marzo 1947 non possono essere assoggettati a tale imposta, indipendentemente dalla circostanza che i loro beni siano situati in tutto o in parte fuori del Territorio Libero di Trieste.»

«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.»

Notwithstanding this, Italian authorities in Trieste have allowed and long supported a situation of abnormous illegality and institutional corruption and have simulate the sovereignty and the direct jurisdiction of the State of Italy over the Free Territory of Trieste and over the international Free Port, at first by extending Italian laws incompatible with the legal order of the Free Territory, and then enforcing directly - for instance, unlawfully and invalidly, Italian laws.

For this illegal purpose, were gradually reduced also the powers of the Commissar of Government by reducing 90% of the staff and limiting their legislative measures to the international Free Port, the *Fondo Trieste* (created with funds from the USA) and to the electoral districts of the “Province of Trieste” (which does not have the legal status of the Province of the State of Italy, but that of a temporary, autonomous provisional body of the Free Territory).

Those abuses are surreptitiously justified with biased political-doctrinal exercises on the matter and by the abnormal judgment of local Italian magistrates, which have no legal grounds or relevance, under international and under Italian law, as well as constituting a violation of both legal orders and leading to civil or criminal liabilities for the public officers who enforce those (Italian Code of Criminal Law, article 479, and others).

Thanks to said deceptions, corrupted Italian political circles and powers did unlawfully deprive the Free Territory of Trieste of its political and special economic rights as well as paralyzing the international Free Port, forcing them in an economic crises more and more hard, which overwhelm the local citizens, families, enterprises and institutions.

Since the crisis, caused by the actions of Italian administrators is at an intolerable level for the population under administration, which suffers economical and vital damages, the Free Trieste Movement considers it necessary putting an end to it by immediately putting in default, with this act, Italian authorities who are civilly or criminally responsible of it.

The Free Trieste Movement does therefore formally invite this Commissar of the Italian Government and, through them, the President of the Council of Ministers of the provisional Italian Governor, to commit all the acts listed in the premises, forthwith, but not later than the time limit set in this act.

After this time, for any default, the Free Trieste Movement and the citizens, residents, enterprises and institutions of the FTT, but also of other States concerned, that are going to associate to this invitation, are free to take action, jointly or as individuals, to all actions for civil, criminal or administrative compensation before the competent international, European and Italian Courts.

The Free Trieste Movement makes clear to this Commissar of Government the extraordinary social and economic urgency of the immediate precautionary suspension of tax collections and of fiscal and administrative proceedings or evictions mentioned above at point 2) of the of the actions to comply with.

The Free Trieste Movement does also make clear to this Commissar of Government that any and every application to the international Free Port of Trieste of the provisions of articles No. 618, 619 and 620 of the Italian financial law No. 190/2014 could violate both international law and the Italian constitutional law.

Also, with this act, this Commissar of Government and, through it, the President of the Council of the Ministers of the Italian Government are invited to adopt all needed measures to prevent and per impede that Italian authorities or Italian political parties commit repressive or retaliatory actions, or physical, political economic or judicial intimidations against the citizens, residents, enterprises and institutions of the Free Territory of Trieste who are legitimately claiming their rights with this document and with all other related documents. Any repressive action or action of repressive nature will be subject to an immediate reaction, being denounced before Italian and international competent Courts.

Trieste, 15 June 2015

Roberto Giurastante
President of the Free Trieste Movement

Movimento Trieste Libera
Piazza della Borsa 7
34121 Trieste