

# COURT OF TRIESTE

## WRIT OF SUMMON

For:

**1) International Provisional Representative of the Free Territory of Trieste – I.P.R. F.T.T.** [*Rappresentanza Internazionale Provvisoria del Territorio Libero di Trieste – Začasno Mednarodno Predstavnštvo Svobodnega Tržaškega Ozemlja – Provisorische Internationale Vertretung des Freien Territoriums Triest*] as legal subject delegated to represent and to defend, in all international and diplomatic forums or judicial proceedings the legitimate rights and interests of the citizens *de jure*, residents, enterprises, and organisations of the Free Territory of Trieste and of other States (**document A1**), appearing before Court represented by its General Secretary and legal representative Paolo G. Parovel, born in Trieste on June 19th, 1944, with lawyers and addressees for substituted service Edoardo Longo (Italian Fiscal Code LNGDRD58E12H6SW) and Sandra Cisilino (Italian Fiscal Code CSLSDR72D69L483B), pursuant to the mandate below, at the end of this act, and with address for service at the Free Trieste Movement, in Piazza della Borsa n. 7.

**2) Paolo G. Parovel**, born in Trieste on June 19th, 1944, entering an appearance also for himself, for his heirs, and for other persons entitled, bearing a legitimate interest as citizen *de jure* of the present-day Free Territory of Trieste (**document A2, with annexes**) to whom was also assigned Italian citizen and was subject to the tax obligations of the Italian Republic, with Italian Fiscal Code (*codice fiscale*) PRVPLA44H19L424C (**document A3**) also in regard to the business activities registered since 1972 at the Chamber of Commerce, Industry, Craft Trades and Agriculture of Trieste (**document A4**) and for the employment as journalist, with registration at the Italian Association of Journalists since 1979 (**document A5**) with lawyers and addressees for substituted service Edoardo Longo (Italian Fiscal Code LNGDRD58E12H6SW) and Sandra Cisilino (Italian Fiscal Code CSLSDR72D69L483B), pursuant to the mandate below, at the end of this act, and with address for service at the Free Trieste Movement, in Piazza della Borsa n. 7

**-claimants-**

Versus:

**1) Italian Government**, represented by the President of the Council of Ministers *pro tempore*, in the role of Government of the Italian Republic and by virtue of the powers at art. 120, second paragraph of the Italian Constitution, based in Piazza Colonna 370, Palazzo Chigi - 00187 Rome - [presidente@pec.governo.it](mailto:presidente@pec.governo.it) at the *Avvocatura dello Stato* (State legal service).

**2) Italian Government**, represented by the President of the Council of Ministers *pro tempore*, in the role of provisional administering Government of the Free Territory of Trieste based in Piazza Colonna 370, Palazzo Chigi - 00187 Rome - [presidente@pec.governo.it](mailto:presidente@pec.governo.it) at the *Avvocatura dello Stato* (State legal service).

**3) Ministry of Economy and Finance**, represented by the Minister *pro tempore*, in the role of Ministry of the Government of the Italian Republic, based in Via XX Settembre 97 - 00187 Rome - [mef@pec.mef.gov.it](mailto:mef@pec.mef.gov.it), at the *Avvocatura dello Stato* (State legal service).

**4) Ministry of Economy and Finance**, represented by the Minister *pro tempore*, in the role of Ministry of the Government of the Italian Republic provisional administering Government of the present-day Free Territory of Trieste based in Via XX Settembre 97 - 00187 Rome - [mef@pec.mef.gov.it](mailto:mef@pec.mef.gov.it), at the *Avvocatura dello Stato* (State legal service).

**5) Tax Revenue Office**, represented by the Director *pro tempore*, Fiscal Code 06363391001 with siège social in via Cristoforo Colombo n. 426 C/D C/D 00145 Rome - [agenziaentratepec@pce.agenziaentrate.it](mailto:agenziaentratepec@pce.agenziaentrate.it) - at the *Avvocatura dello Stato* (State legal service).

**6) State Property Agency**, represented by the Director *pro tempore*, Fiscal Code 0634098100 with registered office in Via Barberini 38 - 00187 Rome - [agenziademanio@pce.agenziademanio.it](mailto:agenziademanio@pce.agenziademanio.it), at the *Avvocatura dello Stato* (State legal service).

**7) Customs and Monopolies Agency**, represented by the Director *pro tempore*, Tax Code 97210890584, with registered office in Via Mario Carucci, 71, 00143 Rome - [dogane@pce.agenziadogane.it](mailto:dogane@pce.agenziadogane.it), at the *Avvocatura dello Stato* (State legal service).

**8) INPS (Italian National Institute of Social Insurance)**, represented by its President *pro tempore*, defendant only as for the verification of the impose tax burdens of the Italian Republic in the present-day Free Territory of Trieste on pensions provided, on Pension Funds, on Italian severance indemnities (*trattamenti di fine rapporto*), and on other economic performances entrusted to the INPS. Fiscal Code 02121151001, with registered office in Via Ciro il Grande, n. 21, 00144 Rome - [ufficiosegreteria.presidenza@postacert.inps.gov.it](mailto:ufficiosegreteria.presidenza@postacert.inps.gov.it), at the *Avvocatura dello Stato* (State legal service).

**- Summone -**

**for notifications and/or communication:**

Fax: 0434/43130

Certified emails: [sandra.cisilino@avvocatiudine.it](mailto:sandra.cisilino@avvocatiudine.it) - [longolegal@pec.it](mailto:longolegal@pec.it)

**The procedure shall remain open to the free, voluntary intervention**, against the defendants, of the citizens and other legal subjects from the present-day Free Territory of Trieste, or from other State, in order to claim a right pertinent to this legal action, or depending on titles deriving from the same legal action (art. 105, first paragraph, Italian Code of Civil Law), or bearing a personal interest to support the action of the plaintiffs (art. 105, second paragraph, Italian Code of Civil Law).

Premise: this legal action for determination revolves on the existence or not, in the Italian legal system in force, of legal obligations and rights, precisely fiscal rights, regarding the relations between the Italian Republic and the Italian Government on one side, and the present-day Free Territory of Trieste - Territorio Libero di Trieste - Svobodno Tržaško Ozemlje, established under the Treaty of Peace of 10 February 1947 [Free Territory of Trieste, Territoire Libre de Trieste, Свободная территория Триест ] and provided with an International Free Port on the other.

Therefore, for the purpose of this legal action for determination “*present-day Free Territory of Trieste*” refers to its new, 1992 territorial asset, resulting in its consistence being the Capital city Trieste-Trst-Triest with its Municipality, the International Free Port and the smaller Municipalities of Muggia-Milje, Dolina (S.Dorligo), Repentabor-Monrupino, Zgonik-Sgonico, Duino Aurisina-Devin Nabrežina, with a total of 236.520 inhabitants (2009 census).

Note: This present consistence of the Free Territory of Trieste corresponds to its main Zone, entrusted by the United Nations to the Governments of the United States of America and of the United Kingdom of Great Britain and Northern Ireland under a special trusteeship mandate, and sub-entrusted by them to the temporary civil administration of the Italian Government and to the military defense of NATO, both exercise it to the present day (2017).

The territorial re-assessment of the Free Territory of Trieste within its present borders depends on UN Security Council and UN General Assembly Resolutions S/RES/753 (1992), A/RES/46/238, S/RES/754 (1992), A/RES/46/236, S/RES 777 (1992), A/RES/47/1 which recognized the new independent Republics of Slovenia and of Croatia in their present borders upon self-determination referenda, and the dissolution of the S.F.R. of Yugoslavia and of its Government. Those acts of recognition by the United Nations made it impossible applying (art. 30.3 of the Vienna Convention on the Law of Treaties) the provisions of the Treaty of Peace with Italy of February 10th, 1947 and of the Memorandum of Understanding of London of October 5th, 1954 that included in the Free Territory of Trieste also an accessory, secondary zone entrusted to the administration of the Yugoslav Government.

The present-day Free Territory of Trieste has therefore preserved its legal status, as well as its border with Italy established with the Treaty of Peace, however, since 1992, it borders with the Republic of Slovenia along the whole line running from the triborder area north to Medja vas - Medeazza to S. Bartolomeo – Sv. Jernej.

## **FACT**

### **I.**

#### **Subject of the legal action**

1. The Italian Government, through its Ministry of Economy and Finance and through its Fiscal Agencies, currently the Tax Revenue Agency, the State Property Agency, and the Customs and Monopolies Agency, as well as through the social insurance institute its controls, the INPS, established and enforces the collection of taxes and other revenues in the present-day Free Territory of Trieste, the temporary civil administration of which is entrusted by the Governments of the United States of America and of the United Kingdom to the responsibility of the Italian Government itself, as well as in the International Free Port of the Free Territory of Trieste.

2. The Italian Government established and enforces the collection of taxes and of other revenues mainly under the form of: taxes (direct and indirect taxation, including Italian excise duties “*accise*”), contributions, financial penalties, taxes on monopolies, taxes

and contributions related to Italian bodies SIAE and RAI (Italian copyright collection agency and the Italian national public broadcasting company), custom taxes and duties, port taxes and maritime tax, taxes and levies on insurances, on financial transactions, on lotteries and gambling, vehicle related taxes, and taxes on fuels, as well as the earnings from concessions, rents, and the sale of assets included in the Properties of State of the Free Territory of Trieste and of its International Free Port.

3. The establishment and enforcement of the collection of taxes by the Italian Government does therefore affect the incomes from self-employment, employment, from pensions, pension funds, Italian severance indemnities (*trattamenti di fine rapporto*) incomes of business activities and professions, financial incomes, inheritances, donations, consumptions, freights, services, and the movable or immovable properties of the citizens, residents, private and public enterprises, of associations, as well as other national and foreign (including Italian) subjects that are active in the Free Territory of Trieste, but also of national and foreign subjects that work in its International Free Port.

4. The Italian Government, through its Ministry of Economy and Finance, its Fiscal Agencies, and the social insurance institute its controls, the INPS, enforces the establishment and collection of those taxes and other fiscal revenues in the present-day Free Territory of Trieste, in the name and on behalf of the Italian Republic, instead of in the name and on behalf of the administration of the Free Territory of Trieste, which is entrusted to the responsibility of the Italian Government itself.

5. For this purpose, the administering Italian Government does enforce the Italian Republic's laws on taxations and their amendments to the present-day Free Territory of Trieste directly, avoiding both to extend them to the legal system of the Free Territory of Trieste with the appropriate, special legislative instruments, and to verify whether Italian laws on taxation comply and are compatible with the fundamental legislation of the administered Free Territory and with the obligations pursuant to the special trusteeship mandate.

6. The sums and assets acquired by collecting those taxes are therefore included in the budget and in the capital of the State, of territorial bodies and authorities, and of public administrations or agencies responsible for public services of the Italian Republic, instead of in those of the administration of the present-day Free Territory of Trieste which is entrusted to the responsibility of the Italian Government.

7. The establishment and the collection of taxes and other revenues on behalf and in the budget of the State, of State, of territorial bodies and authorities, and of public administrations or agencies responsible for public services of the Italian Republic in the present-day Free Territory of Trieste and in its International Free Port constitute a breach of the legal instruments in force in the Italian legal system that establish relations and obligations of the Italian Republic and of its Government towards the Free Territory of Trieste, and the pertinent obligations towards other States and the United Nations, but also of the norms of the Italian Constitution that require compliance with international obligations.

**8.** The main legal instruments in force in the Italian legal system on this subject are the following:

**a)** Law 811/1947, Legislative Decree of the Provisional Head of State 1430/1947, and Law 3054/1952, with which the Italian Republic ratified and executed without reserves, in its own Legal system, the Treaty of Peace between the Allied and Associated Powers and Italy, signed at Paris on February 10th, 1947, which has established the Free Territory of Trieste as sovereign State recognized by the Allied and Associated Powers and by Italy, provided with territory, population, legal order, Government system, and representation in international relations since September 15th, 1947 and placed under the United Nations Security Council's own, direct protection, ending, on that date, the previous Italian sovereignty over the territory of the new State;

**b)** Decree of the President of the Italian Republic of October 27th, 1954 and Italian Constitutional Law 1/1963, with which the Italian Republic recognizes and executes without reserves, in its own Legal system, the successive implementing measure of the Treaty of Peace, in the form of a Memorandum of Understanding of date October 5th, 1954, with which the Governments of the United Kingdom of Great Britain and Northern Ireland and of the United States of America, as primary trustees on behalf of the United Nations, did sub-entrust the temporary civil administration of the present-day Free Territory of Trieste to the responsibility of the Italian Government, which exercises it to date (2017) and under the same title;

**c)** Law 848/1957, Law 112/1974, Law 881/1977, with which the Italian Republic has recognized and executed without reserves, in its own Legal system, the multilateral Treaties that establish the consolidation of the generally recognized principles of international law and of the consequent international obligations;

**d)** arts. 10, first paragraph, 117 first paragraph and 120, second paragraph of the Constitution of the Italian Republic, that transpose generally accepted principles of International Law in Italy's own domestic law, establishing that international and European obligations rank higher than domestic law itself, granting powers of intervention on this matter to the Italian Government on the local authorities established pursuant to Constitutional law.

**9.** Pursuant to those domestic legal instruments that recognize and implement the international obligations of the Italian Republic and of the Italian Government towards the Free Territory of Trieste, the Italian Government exercises, at the same time, two parallel government roles, which are different due to having different titles and obligations on the matter in question:

**a)** the natural role of permanent Government of the Italian Republic on mandate of the Italian people, with the powers and for the purposes established with the Constitution of the Italian Republic, which entrusts the legislative power to the Italian Parliament.

With this permanent role, in international relations as in international law, the Italian Government must comply with the obligations assumed by the Italian Republic under the Treaty of Peace of February 10th, 1947 towards other Signatory States and their

successors, towards the Free Territory of Trieste, and towards the United Nations Security Council.

**b)** the additional, temporary role of provisional administering civil Government of the present-day Free Territory of Trieste under a special trusteeship mandate entrusted by the British and United States Governments as primary administrators on behalf of the United Nations, with the powers and purposes established under the Treaty of Peace with Italy of February 10th, 1947 and by its norms about the Provisional Regime (Annex VII) which do also assign to the administering Government the legislative power, within the limits established with the Memorandum of Understanding of October 5th, 1954.

With this temporary role, in international relations as in international law, the Italian Government must comply with the obligations assumed under the mandate of temporary civil administration towards the administered Free Territory of Trieste, its citizens and its enterprises, towards the Governments of the United States and of the United Kingdom, towards all States that hold general or special rights over the international Free Port of the Free Territory of Trieste, and towards their enterprises.

**10.** The 1947 Treaty of Peace, the 1954 special trusteeship mandate, and the consequent instruments of ratification and implementation in the Italian legal system do not contain provisions that authorize the provisional administering Italian Government of the present-day Free Territory of Trieste to impose to the Free Territory the fiscal regime of another State, nor to collect in the budget and assets of that State the tax revenues and properties of State of the administered Free Territory.

**11.** In the Italian legal system, the instruments that ratify or execute international obligations of the Italian Republic and of its Government towards the present-day Free Territory of Trieste, the consequent obligations towards other States and towards the United Nations, as well as other obligations deriving from other, pertinent multilateral treaties, and conventions, prevail and rank higher than domestic laws in the hierarchy of the sources of law, under pre-Constitutional, specific law (art. 2 Legislative Decree of the Provisional Head of State No. 1430/1947) and under successive provisions of the Italian Constitution, in force since January 1st, 1948 (art. 10 first paragraph, art. 117 first paragraph, art. 120, second paragraph).

**12.** The prevailing of those legal instruments in the hierarchy of sources of law can only be outranked in case they are abrogated (art. 15 *Preleggi*, the Italian *Disposizioni sulla legge in generale* or General provisions of law, established with the Italian Code of Civil Law), deemed null and void, or made unenforceable by successive titles with an equivalent of prevailing nature.

**13.** The main instruments recalled above, as well as the instruments that implement them, are included in the Italian legal order, in which they form a specific, coherent, unequivocal legislative *corpus*, which prevails in the hierarchy of sources of law and is in force since 1947.

## **II.**

### **Legislative *corpus* of Italian law**

14. The legislative *corpus* of the legal instruments of the Italian legal system that recognize and implement, to this day (2017) the international obligations of the Italian Republic and of the Italian Government towards the present-day Free Territory of Trieste, and the consequent obligations towards other States and towards the United Nations, consists in the legal instruments listed, explained, and commented in **expertise SG/2017/LC/M-V of the IPR FTT (document A6)** here recalled in full, which classifies the same legal instruments in the following, main categories:

A. Pre-Constitutional laws ratifying and executing the Treaty of Peace with Italy; Law 811/1947; Legislative Decree of the Provisional Head of State No. 1430/1947.

B. Legal instrument to immediately (1947) adapt the Italian legal system to the ceasing of Italian sovereignty over the newly established Free Territory of Trieste; Legislative Decree of the Provisional Head of State No. 1319/1947; Legislative Decree of the Provisional Head of State No. 1064/1947; Decree Law of the Provisional Head of State No. 1485/1947; Decree Law of the Provisional Head of State No. 1547/1947; Decree Law of the Provisional Head of State No. 1641/1947; Decree of the Provisional Head of State No. 1619/1947; Decree of the Provisional Head of State No. 1703/1947; Decree of the President of the Italian Republic 226/1948.

C. Constitutional rules of the Italian Republic; arts. 5, 10, 117, 120 (Constitution of the Italian Republic).

D. Laws that ratify and execute bilateral agreements of State between the Italian Republic and the United Kingdom or with the United States that include provisions regarding the Free Territory of Trieste; Legislative Decree 466/1948; Law 1108/1948; Law 355/1949.

E. Ratification and execution of the bilateral agreement of State on the subject of currency between the Government of the Italian Republic and the British-US Government of the Free Territory of Trieste; Decree of the President of the Italian Republic 1630/1948.

F. Laws ratifying Legislative Decree of the Provisional Head of State No. 1430/1947 to execute the Treaty of Peace with Italy; Law 3054/1952.

G. Normative acts that recognize and implement in the legal system of the Italian Republic the international sub-mandate of temporary civil administration of the present-day Free Territory of Trieste entrusted to the Italian Government by the British and United States Governments; Decree of the President of the Italian Republic of October 27th, 1954 (without number); Italian Constitutional Law No. 1/1963, and others.

H. Laws ratifying and implementing in the Italian legal system the international Treaty that establish and codify the generally recognized principles of international law; Law 848/1957; Law 112/1974; Law 881/1977.

I. Instrument that extend to the legal system of the Italian Republic the acts of recognition, in European existing or pre-EU organizations, the Free Territory of Trieste as a Member State as well as the obligations of the special trusteeship and international representation entrusted to the Italian Government: Law 1107/1948; Law 232/1962; Law 1620/1960; Law 1636/1960; Law 362/1961; Law 224/1955.

J. Agreement about the establishment of the International Monetary Fund: Law 132/1947.

K. Norms of instruments that ratify and implement in the Italian legal system the European treaties that provide in Community law (which ranks higher than Italian legislation under arts. 10 and 117 of the Italian Constitution) also respect to the Free Territory of Trieste; Law 766/1952; Law 848/1955; Law 1203/1957; Law 454/1992; Law 130/2008.

L. The deriving norms of the Italian legal system regarding the separation of the customs and fiscal regime of the international Free Port of Trieste from the customs and fiscal regime of Italy of the European Community: Decree of the President of the Italian Republic 1133/1969; Decree of the President of the Italian Republic 43/1973; Law-Decree 69/1988 and Law 153/1988; Law 84/1994; Decree of the President of the Italian Republic 107/2009.

M. The “parallel legislation” of the Italian temporary administration of the present-day Free Territory of Trieste: legislative acts from 1954-2016 of the Commissioner of the Italian Government and, from 1964 also the administrative acts of Region Friuli Venezia Giulia.

N. Normative and administrative acts continuing, to this day (2017), the exercise of the mandate of temporary civil administration of the present-day Free Territory of Trieste: Law 440/1989; DM 20.1.1960; Law 678/1985; DM 339/1989; Normative Decrees of the Commissioner of the Italian Government regarding the international Free Port of Trieste (1955-2016).

### III.

#### **Jurisdictional competence**

**15.** Due to the economic and political disproportion between the Italian Republic and the Free Territory of Trieste, measuring 301,340 square kilometers and with 60 million inhabitants the former and 212 square kilometers and with less than 240,000 inhabitants the later, the weakest State can only be protected from the abuses of the strongest activating either the protections established under international law or those in force in the legal system of the Italian Republic, which bounds the Italian Government to respect international obligations towards the Free Territory of Trieste.

**16.** The main Italian and international legal instruments that establish and regulate the relations and obligations of the Italian Republic and of the Italian Government respect to the present-day Free Territory of Trieste, as well as their relations and consequent obligations towards other States, are shared with the legal system of the Free Territory



of Trieste, because it is the same instruments of international law that establish it and the instruments of Italian law that were extended or added to the legal order of the Free Territory with the normative acts of the special trusteeship mandate entrusted to the Italian Government.

**17.** Also, to carry out the administration of the Free Territory of Trieste, the Italian Government relies on administrative and judicial bodies of the Italian Republic, therefore they exercise two parallel roles themselves, for acts that involve the sovereign territory of the Italian Republic and for those regarding the territory of the State under special trusteeship.

**18.** Therefore, the enforcement of the norms of those shared legal instruments does not give rise to normative conflicts between the legal systems of the Free Territory and of the Italian Republic, because said norms are in force *utraque lege*, and the administrative and judicial bodies of both legal systems have the legal obligation to execute those and to prevent their violation.

**19.** As for the controversies regarding the interpretation and execution of the Treaty of Peace with Italy, the Treaty itself does expressly reserve those to specific procedures of international law that exclude any competence of national judges, and can only be activated by the legitimate international subjects. This principle is also consolidated with the Vienna Convention on the Law of Treaties, ratified and implemented in the Italian legal system with Law 112/1974.

**20.** However, verifying whether or not the behaviors of Italian authorities constitute a violation of the legal instruments of the Italian legal system that ratify and execute the 1947 Treaty of Peace and confirming the consequent obligations of the Italian Republic and of the Italian Government under domestic law, remains part of the competences of Italian national judges, and this verification can be activated not only by international subjects, but also by subjects of private and public law, including natural persons and enterprises.

**21.** The verification of the existence of specific obligations in the Italian legal order and of their rank among other sources of law does not exceed the competences of Italian judges either, because it does not require them to verify the existence of those obligations in international law, also, it respects the Constitutional principles of the Italian Republic, which are shared with the legal system of the Free Territory of Trieste, that establish the judiciary's independence from the executive and legislative power, and its only subject to the law (arts. 101, 102 first paragraph, 104 first paragraph and 111 first and second paragraph of the Constitution of the Italian Republic).

**22.** Therefore, in this case, the practical measure to correct the alleged infringements can be also obtained with a judicial verification carried out by an Italian Court to establish whether those behaviors of executive bodies, judicial authorities, public authorities or administrations, and of public administrations or agencies responsible for public services of the Italian Republic are legitimate or not within the Italian legal system.

23. Also, the appeal to an Italian judge to verify, only in domestic law, the existence of violations of instruments of the Italian legal system in force, does not preclude or prejudice the right of entitled international subjects to activate, at any time and for the same reasons, the international procedures for the settlement of disputes that apply to violations of the 1947 Treaty of Peace or to the related 1954 Memorandum of Understanding.

24. Also, there is no doubt about the competence of an Italian Court to verify, by judicial means, the fact that the alleged infringements of legal instruments of the Italian legal system in force that transpose, execute, and confirm the international obligations of the Italian Republic and of its Government towards the present-day Free Territory of Trieste, and the consequent obligations towards other States and towards the United Nations, are legitimated or not by a prevailing legal title in the Italian legal order.

25. The direct competence of the defendant Italian Government to end with higher-ranking legal measures also the violations of local administering authorities on the matter of international rules and treaties, legal unit, and benefits relating to civil and social entitlements, is established with the Constitution of the Italian Republic, art. 120, second paragraph: *«The Government can act for bodies of the regions, metropolitan cities, provinces and municipalities if the latter fail to comply with international rules and treaties [...] whenever such action is necessary to preserve legal or economic unity and in particular to guarantee the basic level of benefits relating to civil and social entitlements, regardless of the geographic borders of local authorities».*

#### IV.

##### **Legitimate Interests represented and activated**

26. The request of judicial verification is based not only on the special relevance of the question of legitimacy itself, but also by the extraordinary seriousness, increasing, and intolerable of the material, social, and moral damages that the alleged infringements cause to the Free Territory of Trieste, to its people, and, individually, to its citizens and residents, to its enterprises, and to other national and international legal subjects that work in the Free Territory and in its International Free Port.

27. The entity of these unfair damages – and of the consequent moral and legal responsibilities of the Italian authorities involved – has come to a point that makes it necessary requesting, in case the defendant authorities don't do it, the Judge suspends the enforced recovery of the taxes and levies in question, as well as the pertinent interests and charges, as well as of any other administrative or legal act on the matter or related to it, until the judicial findings of the title to impose those in the Free Territory of Trieste are complete.

28. The economic damages caused by the situation described above are made worse and intolerable due to the fact that the illegal imposition and collection of Italian taxes in the Free a Territory of Trieste, to its citizens, to its enterprises, and to other legal subjects is excessive due to being burdened by the serious economic disaster and by the enormous, irremediable public debt of the Italian Republic, which are known to depend on excessive levels of organized criminality and political-institutional corruptions.

**29.** Due to this, the taxes imposed and collected on behalf of the Italian State and of public bodies or authorities of the Italian Republic are already superior two to three times than the taxes that should be applied for the administration of the Free Territory or enforced in nearby or bordering States, while social assistances and public services offered to the citizens in exchange of those taxes by the Italian administration are much inferior, and their lack causes serious damages and social injustice.

**30.** In practice: to date (2017) Italy's fiscal pressure is 43.8% of its GDP, among the highest in Europe; its total tax rate on medium-size enterprises is 65% (25% higher than EU/EFTA average); Italy's public debt is the highest in Europe (132,5% of the GDP) second only to that of Greece; unemployment among young people is above 40%; the individual, absolute poverty line, adjusted by the cost of living in Italy, is a monthly EUR 800 income, however, Italian minimum pensions for citizens are monthly EUR 500 (less than half the monthly subsidy Italy issues to support each illegal immigrant).

**31.** Furthermore, this situation is additionally worsened by the fact that Italian laws on taxation force citizens and enterprises to pay, every year, anticipated taxes on the expected income for the following year, without having collected the money to pay that yet, also, the income of the enterprise is calculated on the base of statistics rather than on the actual taking. In order to protect themselves from the abuses of the Italian system of taxation, citizens, enterprises, and associations, are forced to pay significant amounts of money for advices on tax matters, legal actions before Tax Courts, or criminal lawsuits.

**32.** The abnormality of the unfair taxation forced by Italian authorities also on the Free Territory of Trieste paralyzes and drains its own economy, ruining citizens, residents, and both public or private companies and other legal subjects, increasing constantly the number of unemployed citizens, both young and middle-aged, who have also deprived of all job opportunities, but increasing also the number of impoverished pensioners and of families without incomes nor house.

**33.** Also, the Italian Government worsens the damages caused by the unfair, enormous taxation by preventing the administering Free Territory of Trieste from creating new jobs, new wealth, and new revenues with its own, special economic instruments of International Free Port and of independent financial commercial and productive center, and with its own assets of State, which do also include public waters and railways.

**34.** The administering Italian Government, for instance, by acting directly or through bodies it has delegated or authorized, does:

**34.1.** limit and sabotage the development of the International Free Port of the Free Territory of Trieste by administering it as if it were a port of the Italian State, in breach of both its own specific international obligations and of the rights of all other States, and, in particular:

**a)** it does drastically reduce jobs and opportunities of development of the International Free Port by enforcing only a part of the operational and fiscal regime established with

the 1947 Treaty of Peace (Annex VI, art. 34 and Annex VIII) and the provisions of this regime (Annex VIII, art. 1 to 20) that it must comply with for its role of temporary civil administrator, since 1954.

**b)** it does divert relevant freight traffics from the International Free Port of the Free Territory of Trieste to the competitor Ports of the Italian Republic, even with means that are clearly forbidden by the 1947 Treaty of Peace and its own legal obligations (Annex VIII, art. 16.3), like the disproportionate increasing of port taxes and berth fees (art. 4 Decree of the President of the Italian Republic of May 28th, 2009, No. 107);

**c)** is attempting, by illegal measures, to half the constrained, functional areas of the International Free Port of Trieste by eliminating its whole northern sector (the Northern Free Port, also referred to as the “old” port) to sell the areas and facilities for private building and housing speculation, and to illegally transfer the Free Port regime to the Italian ports of Monfalcone and Porto Nogaro;

**d)** since 2008, it does also claim the illegal payment of the IVA (Italian VAT) on port concessions in the International Free Port of the Free Territory of Trieste, regardless to that being a tax that does only apply to the territory of the Italian State (Decree of the President of the Italian Republic, October 26th, 1972 No. 633, art. 1);

**e)** by this illegitimate claim for the payment of the Italian VAT, in 2016, it had the Ente per la Zona Industriale di Trieste – EZIT (Organization for the Industrial Zone of Trieste) put in liquidation; that body had been established by the British-US Government to serve the Free Port, but now its areas are illegally undersold to private speculators;

**f)** it did move to Italy or eliminate for the advantage of Italian economy primary production activities of the Free Territory of Trieste connected with the port, like the shipyards and all related activities.

**g)** by simulating the sovereignty of the Italian State over the international Free Port of Trieste, exposes all enterprises that work there to legal action and international complaints brought forward by other States and by competing enterprises, because the international Free Port of Trieste, with its tax free regime, does legally list only as state corporation of the Free Territory of Trieste (1947 Treaty of Peace, Annex VIII, art. 2.1).

**34.2.** it paralyzes the right of the Free Territory of Trieste to develop its economy as independent financial, commercial, and productive center, and, to do so:

**a)** it forces on it the laws on taxes, commerce, production and competition of the Italian State, that are subject to the constraints of European Treaties, which the Free Territory of Trieste has no obligation to comply with as it is an independent State that does not belong to the European Union (see document A6);

**b)** in 1997, it did illegally close the Stock Exchange of the Free Territory of Trieste by merging it with small Italian Stock Exchanges in company Borsa Italiana S.p.A. (Milano), which in 2007 merged with the London Stock Exchange Group;

c) did close the *Fiera Campionaria Internazionale di Trieste* (International Fair of Trieste) established in 1948 by the British-US administering Government of the Free Territory.

**34.3.** it does illegally assign, by the mean of deceptive record in Land Registry and Cadastral offices, the ownership of the State Assets of the present-day Free Territory of Trieste and of its International Free Port to the State Property of the Italian State and of its own public authorities (considering as Italian authorities also the Municipalities and the Province of the Free Territory) and it allows them to award, rent, transfer, or sale those assets, including port and railway related assets, collecting the revenues in its own budget or in the budget of other authorities of the Italian State.

**34.4.** it does also and further impoverish the economy of the administering Free Territory failing to recognize the integrations and allowances of the salaries and pensions of the thousand of civil and military State employees of the Italian State and of its public authorities that served in the administration of the Free Territory of Trieste, which used to be recognized and paid for this service abroad.

**35.** At the same time, the administering Italian Government violates the fundamental democratic principle that connects taxation to civil rights (*no taxation without representation*). For instance, the Italian Government prevents the appointment and election of legitimate representatives of the Free Territory of Trieste, instead, it forces the appointment and election of political representatives of the Italian Republic.

**36.** Therefore, *in re ipsa*, there are all evidences and concrete proofs that the ceasing of the economic, moral, social, and political damages caused by the alleged violations of both a legitimate and individual right of the citizens, residents, public and private enterprises, as well as of rights of all other legal subjects of the present-day Free Territory of Trieste that are still subject to them, but also of national and international subjects that are working or have the right to work in the International Free Port of the Free Territory of Trieste, and also of the national and international subjects entitled with the right to enjoy the commercial, productive, financial, and fiscal freedoms offered by the Free Territory of Trieste.

## V.

### **Non-judicial remedies that were already taken**

**37.** Numerous citizens and residents of the present-day Free Territory of Trieste have therefore addressed the competent Commissioner of the Italian Government in Trieste with official, documented requests to obtain an official, clarification of this situation in legal terms (*document A7*), however, the Italian authority in charge has omitted the official procedures required to answer the requests of the citizens, and ultimately defended the infringements of legal provisions with a press note consisting in claims tat go against the truth and the law, political opinions, and threatening them with economic retaliations (*document A8*).

**38.** As for the abuses that harm the International Free Port of Trieste, specific and documented warnings, legal actions, and criminal complaints were presented, however, until now, Italian political, administrative, and judicial authorities have failed to pursue. We reserve to lodge copies of those legal acts also during this proceeding.

**39.** The illegitimacy of said behaviors of bodies of the Italian Government and of the Italian State, as well as the extreme seriousness of the consequent damages, have already been reported to the President of the Italian Republic and to the Italian Government by the I.P.R. F.T.T. with official complaints that were also sent to the competent international Authorities, in order to obtain the ceasing of all violations or to negotiate possible solutions to settle the disputes.

## L A W

**40.** The matter in discussion revolves on the violation of the fiscal rights and obligations of the citizens, residents, enterprises, and other legal subjects of the present-day Free Territory of Trieste, and of the national or international legal subject that are working or have the right to work in the present-day Free Territory of Trieste and in its International Free Port, established under the Treaty of Peace with Italy of February 10th, 1947, ratified and implemented in the legal system of the Italian Republic as a law of the State, in compliance with international obligations that in the Italian legal system rank higher than domestic law by virtue of an autonomous, pre-Constitutional norm (art. 2 Legislative Decree of the Provisional Head of State No. 1430/1047) and under the Constitution itself.

**41.** Legislative Decree of the Provisional Head of State No. 1430/1947 (ratified with Italian Law No. 3054/1952) implementing the Treaty of Peace in the Italian legal system is extended to the legal system of the present-day Free Territory of Trieste by virtue of its publication in Official Bulletin of the Commissioner General of the Government for the Territory of Trieste No. 17 of June 11th, 1956 (*document A9*) who, with own acts, extended to the Free Territory also the jurisdictional competences of Italian courts.

**42.** The places and instruments for the settlement of disputes on the matter do therefore belong, at the same time, but following different procedures and effects that are not connected to one another, and belong to two different legal systems, precisely:

**a)** to the Italian legal system, when it comes to the judicial findings regarding the aforementioned conflict between domestic, although different-ranking laws, the verification and establishment of the highest-ranking is under the competences of Italian judges as such, and as delegate to the administration of justice in the present-day Free Territory of Trieste;

**b)** to the international legal system, when it comes to the settlement of disputed regarding the interpretation and execution of the multilateral Treaty of Peace, which are reserved by the same Treaty, with specific norms that exclude the competences of national judges and are also implemented in the Italian legal system (arts. 83, 86, 87, Annex VI art. 36, Annex VIII art. 24, Annex IX art. 7: Annex X art. 19 of the Treaty of

peace with Italy, executed with Legislative Decree of the Provisional Head of State 1430/1947 ratified with Italian Law 3054/1952).

Also, the competences of national judges on this matter are excluded by virtue of arts. 65, 66 and 67 of the Vienna Convention on the Law of Treaties, ratified and implemented in the Italian legal system with Law 112/1974.

**43.** In the Italian legal system, the specific act we request be verified is the natural and constitutional difference in the hierarchy of sources of law between the laws in force that govern relations between the Italian Republic and the Free Territory of Trieste pursuant to international obligations, and the Italian laws that are enforced in a way contrary to the same international obligations.

**44.** In case of conflict between laws in force but with different ranks, the inferior-ranking norm cannot amend nor abolish the higher-ranking norm, which therefore makes all the contradictory parts null and void, preventing its enforcement.

**45.** In the abstract: a lower-ranking law that conflicts with a higher-ranking law, in case such contrast is not self-evident nor denounced with specific actions, might be enforced *bona fide* until its invalidity is declared upon judicial ascertainment.

**46.** In this case, however, it is demonstrated that the competent executive bodies continued to enforce the lower-ranking laws even after the inapplicability of the same laws, the irremediable conflict with higher-ranking laws, and the seriousness and significant public interest of the consequent damages were all made clear to them with appropriate, official, documented complaints.

**47.** Also, in this case, the prevalence of international obligations established under the Treaty of Peace with Italy of February 10th, 1947 in the Italian legal system is also established autonomously with art. 2 of Legislative Decree of the Provisional Head of State No. 1430/1947, that is chronologically precedent to the general provisions of the Italian Constitution that establish that international obligations, including those of the same Treaty, rank higher than domestic law.

**48.** As for the legal responsibilities of the Italian Government as main and double defendant, it is entitled with the duty to execute two different, albeit converging, levels and categories of international obligations and of domestic law respect to the Free Territory of Trieste, precisely:

**a)** as Government of the Italian Republic, it must comply with the international obligations assumed by Italy respect to the Free Territory of Trieste, which are ratified and implemented in the Italian legal system as laws of the State with Law n. 811/1947, Legislative Decree of the Provisional Head of State No. 1430/1947 and Law No. 3054/1952, granted to rank higher than the Italian Constitution itself, and for this role it is responsible before the Signatory States and their successors, to the present-day Free Territory of Trieste, and to the United Nations Security Council.

b) as temporary administering Government of the present-day Free Territory of Trieste it must execute the international obligations deriving from the special sub-mandate under which the Governments of the United Kingdom and of the United States, as primary administrators, have entrusted it with the exercise of said temporary civil administration, as recognized and implemented in the Italian legal system and in the legal system of the Free Territory with Decree of the President of the Italian Republic of October 27th, 1954 and Italian Constitutional Law No. 1/1963, and for this role it is responsible to the State, people, and enterprises of the administered present-day Free Territory of Trieste, to the two primary administering Governments, to all other States holding general or specific rights over the international Free Port of the Free Territory of Trieste, and to their enterprises.

49. Therefore, there are all logical, legal and factual premises that legitimize this legal action for the verification and to obtain the declaration of the recognition of the fact that the specific, higher-ranking provisions of the Italian legal system are in force and prevailing on conflicting, inferior-ranking law, thus make them inapplicable, after the precautionary suspension of all enforced recoveries deriving from the disputed laws on taxation and of all other administrative or related or similar judicial acts.

## §

With this premise, the claimants legitimized and defended *ut supra*;

### SUMMON:

- 1) **the Italian Government**, represented by the President of the Council of Ministers *pro tempore*, in the role of Government of the Italian Republic and by virtue of the powers at art. 120, second paragraph of the Italian Constitution;
- 2) **the Italian Government**, represented by the President of the Council of Ministers *pro tempore*, in the role of provisional administering Government of the Free Territory of Trieste;
- 3) **the Ministry of Economy and Finance**, represented by the Minister *pro tempore*, in the role of Ministry of the Government of the Italian Republic;
- 4) **the Ministry of Economy and Finance**, represented by the Minister *pro tempore*, in the role of Ministry of the Government of the Italian Republic provisional administering Government of the present-day Free Territory of Trieste;
- 5) **the Tax Revenue Office**, represented by the Director *pro tempore*;
- 6) **the State Property Agency**, represented by the Director *pro tempore*;
- 7) **the Customs and Monopolies Agency**, represented by the Director *pro tempore*;
- 8) **the INPS (Italian National Institute of Social Insurance)** - represented by its President *pro tempore*, defendant only as for the verification of the possibility to impose tax burdens of the Italian Republic on pensions provided, on Pension Funds, on Italian severance indemnities (*trattamenti di fine rapporto*), and on other economic performances entrusted to the INPS in the present-day Free Territory of Trieste.

to lodge their appearances before the hearing of **NOVEMBER 27th, 2017 at 9.00 AM**, with the invitation to promptly appoint a lawyer to appear before Court twenty days before the date of the first hearing written above, in the appropriate manners set out in



article 166 of the Italian Code of Civil Procedure, and to appear at the hearing before the Judge to be appointed pursuant to article 168 of the Italian Code of Civil Procedure, warning them that their appearance after said deadline causes several limits to their defense rights and the loss of the rights set out in articles 38 and 167 of the Italian Code of Civil Procedure, and warning them that, in case of failure to appear, the Court will have to proceed in default of appearance to uphold the following

### **CONCLUSIONS:**

#### **IN THE MERIT:**

To preliminarily verify:

**a)** that, to this date and on the date of the judgment, the following legal instruments of the Italian Legal System are in force: Law No. 811/1947; Legislative Decree of the Provisional Head of State No. 1430/1947; Constitution of the Italian Republic, arts. 10 first paragraph, 117 first paragraph, 120, second paragraph; Law No. 3054/1952; Decree of the President of the Republic October 27th, 1954, Constitutional Law No. 1/1963, arts. 1, 2, 4, 70.

**b)** the fact that those legal instruments in force in the Italian legal system establish and regulate also the implementation of international obligations of the Italian Republic and of the Italian Government towards the present-day Free Territory of Trieste, the temporary civil administration of which is entrusted, since October 5th, 1954, to the Italian Government, that exercises it to date, as well as the related obligations towards other States and the United Nations;

**c)** the fact that in the Italian legal system, those legal instruments in force are also the highest-ranking within the hierarchy of sources of law by virtue of an autonomous, pre-constitutional norm (art. 2 of Legislative Decree of the Provisional Head of State No. 1430/1947 ratified with Law No. 3054/1952) and by virtue of successive Constitutional principles and provisions (arts. 10 first paragraph, 117 first paragraph and 120, second paragraph of the Italian Constitution; art. 4 of Italian Constitutional Law 1/1963);

To declare:

1) the consequent, absolute lack of any title of the Italian Government, of its bodies, or of any other subject delegated by it, to establish, collect, and forfeit taxes and other fiscal revenues in the present-day Free Territory of Trieste, the administration of which is entrusted to the responsibility of the Italian Government, and in the international Free Port of the Free Territory of Trieste, on behalf, in the name, and in the budget of the State or of territorial public bodies or other administrative authorities (including Province and Municipalities) and concessionaires of public services of the Italian Republic.

2) the full title of the Italian Government, and of its bodies or other legal subjects it has delegated, to establish, collect, and forfeit, in the name, on behalf, and in the separate budget of the temporary civil administration of the present-day Free Territory of Trieste

and of its international Free Port, as long as that is entrusted to their responsibility, only the taxes and other fiscal revenues envisioned or compatible with the laws in force in the Italian legal system that establish the international obligations of the Italian Republic and of its Government towards the present-day Free Territory of Trieste and their related obligations towards other States and the United Nations.

Legal expenses recast pursuant to the law.

The International Provisional Representative of the Free Territory of Trieste – I.P.R. F.T.T. and all other international subjects concerned fully reserve the right to address the authorities and recall the procedures of international law identified and established under the Treaty of Peace with Italy of February 10th, 1947 or with other international conventions, to impugn and to dispute the same alleged violations, or other connected, at any moment in case the time, development, or outcomes of the present legal action or of possible negotiations on the matter prove to be inefficacious to protect the legitimate interests represented.

**AS A PRELIMINARY AND PRECAUTIONARY MEASURE, AND POSSIBLY AS ADDITIONAL ARGUMENT IN THE MERIT**

Whilst the proceedings are pending and in case the addressed authorities of the Italian Republic have not already taken care of that in self-defense, to order all procedures of enforced recovery related to this proceeding or connected with it be suspended, precisely:

- a) the procedures for the enforced recovery of taxes and other revenues in the name, on behalf, and in the budget of the Italian State and of other territorial or institutional public bodies, of public authorities, and of concessionaires of public services of the Italian Republic in the present-day Free Territory of Trieste, the temporary civil administration of which is entrusted to the responsibility of the Italian Government, and in the international Free Port of the Free Territory of Trieste;
- b) the procedures of the State Property Agency, or of any other public or private body, to assign, to sell, or to transfer ownership to third parties the public assets that article 1 of Annex X of the 1947 Treaty of Peace or article 2.2. of its Annex VIII, both ratified and implemented in the Italian legal system with Legislative Decree of the Provisional Head of State 1430/1947 and with Law. 3054/1952, assign without payment to the Free Territory of Trieste and to its international Free Port, respectively;
- c) the enforcement of judgments and of other legal decisions with the same rank that result to be issued by declaring those consist in the exercise of the sovereignty of the Italian Republic over the Free Territory of Trieste - *Territorio Libero di Trieste* requesting the payment of certain amounts of money, acts of seizure, or other capital requirement, that cannot be pronounced by authorities that are not legally entitled with

coercive powers on the matter of assets, as established by the legal apparatus mentioned in the premises.

**ANNEXES:**

*(to the original legal document)*

A1 – Authentic texts of the Instrument of constitution of the International Provisional Representative of the Free Territory of Trieste dated September 16th, 2015, in Italian and in English.

A2 – Self-declaration of Paolo G. Parovel’s citizenship, with annexes.

A3 – Paolo G. Parovel’s Italian Fiscal Code

A4 – Paolo G. Parovel’s Occupational records from the Chamber of Commerce, Industry, Craft Trades and Agriculture of Trieste.

A5 – Paolo G. Parovel’s membership card to the Italian Association of Journalists.

A6 – Italian version of Expertise with protocol number SG/2017/LC/M-V of the I.P.R. F.T.T. Law Commission, with annexes recalled within the same text.

A7 – Copy of the “Declaration of tax objection with reasons” presented to the Commissioner of the administering Italian Government by citizens *de jure* of the Free Territory of Trieste.

A8 – Official press release of the Commissioner of the administering Italian Government, issued on July 6th, 2016.

A9 – Act extending Legislative Decree of the Provisional Head of State 1430/1947 (ratified with Law 3054/1952) to the legal system of the Free Territory of Trieste by virtue of its publication in Official Bulletin of the Commissioner General of the Government for the Territory of Trieste No. 17 of June 11th, 1956, page 186.

Giving notice to the summoned that they can reach an agreement with the claimants to settle the crisis; or they can suggest an action plan with the support of a settlement body or a Court-appointed professional.

It is noted that the value of this claim cannot be defined; therefore the unique contribution is set in EUR 1,676.00.

Trieste, Monday May 22th, 2017.

*[signatures: omissis]*

**MANDATES:**

*[omitted in this English translation]*

**ACKNOWLEDGEMENTS OF RECEIPT:**

*[omitted in this English translation]*