REPORT
and demand of an urgent investigation and adoption of all necessary measures

presented by the Movimento Trieste Libera (Free Trieste Movement) regarding the systematic violation of fundamental human and civil rights – concerning legal defense, the right of family and the legal capacity of persons – committed in Trieste by persons in charge of the public offices of the Italian administration, with abuses in the judiciary subtraction of minors to their families, as well as in both the assignation and conduction of supporting administrations.

A / to

1) – President of the Council of Ministers of the Italian Republic

- Minister of Justice

- Minister of Healthcare

of the Italian Government, as temporary, civil administrator of the Free Territory of Trieste under special trusteeship mandate of the Organization of United Nations.

2) - Security Council of the United Nations

- Trusteeship Council of the United Nations

- United Nations High Commissioner for Human Rights

as guarantors of the Free Territory of Trieste, under special trusteeship administration of the Italian Government

3) President of the European Commission

4) President of the Court of Appeal of Trieste

5) President of the Court of Trieste

6) Public Prosecutor at the Court of Bologna (ex art. 11 c.p.p.)

7) Major of the municipality of /Sindaco del Comune di / Župan občine Trieste-Trst

8) Major of the municipality of / Sindaco del Comune di / Župan občine Muggia-Milje

9) Major of the municipality of / Sindaco del Comune di / Župan občine Dolina-S.Dorligo

10) Major of the municipality of / Sindaco del Comune di / Župan občine Repentabor-Monrupino

11) Major of the municipality of / Sindaco del Comune di / Župan občine Zgonik-Sgonico,

12) Major of the municipality of / Sindaco del Comune di / Župan občine Devin Nabrežina – Duino Aurisina

13) General Director of NHS Primary Care Trust n.1-Triestina

14) Regional Prosecutor of the Court of Counts in Trieste

and curtsey copies to:

- high-court public prosecutor at the Court of Trieste

- Public Prosecutor at the Court of Trieste

- the President of the institution defined as “Provincia di Trieste”

- the Bishop of the Roman Catholic Diocese of Trieste

- the Archimandrite and the President of the Serbian-Orthodox Religious community of Trieste

- the Archimandrite of the Greek-Orthodox Church and to the President of the Greek-Orthodox Community of Trieste

- the Parrish Priest of the Rumanian-Orthodox Community and to the President of the Rumanian community of Trieste

- the Rabbi and the President of the Hebraic Community of Trieste

- the Imam and the President of the Islamic Community of Trieste

- the President, and through him to the members of the Association of Doctors of Trieste

- the President, and through him to the members of the Association of Pharmacists of Trieste

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1. <u>Contents of the report.</u>

In the municipalities of the Territory of Trieste, which is under the administration of the Italian Government, were recorded absolutely enormous percentages – respect to the Italian average – of both subtraction of children to their families in order to assign them to the foster care of the organized, lucrative net of shelter homes and of the subjugation of adults to the *amministrazione di sostegno* (supporting administration) with lead to the radical deprivation of their fundamental human and civil rights (ownership, consent to medical treatment, secrecy of correspondence) and to the assignation of these rights not to their relatives, but to professional, organized lucrative nets of lawyers and other subjects outside the family.

In Trieste, this private business is abnormally fueled taking resources from both public money and from the properties of the persons assisted and their families: this can be prudentially estimated in hundreds of millions of Euro, involving retributions, the provision of goods and services, the trade of estates belonging to the administered persons, as well as public money and other benefits.

This local, anomalous management of youngsters and supporting administrations is also hidden to public opinion, being rather presented as a "laboratory" for a positive, social-sanitarian and judiciary models, to be extended everywhere in Italy.

Both the subtraction of children to be assigned to shelter homes and the subjection of adults to restrictive supporting administration are happening due to the responsibility of the local judiciary, welfare and sanitary structures: when it comes to children, this does also represent a violation of preexisting, as for supporting administration, this takes place through the restrictive application of new, partially illegal, national norms, which were invented and promoted by local systems itself. All these circumstances of abuse revolve on the key role of the *Giudice Tutelare* (Justice in charge of supervising guardianship related cases, from now on: guardianship justice).

The number and percentage exceeding registered in Trieste do not seem to be justified by neither proportional parameters of unsuitableness of the families to maintain children, nor by a real , inferior autonomy of adults and not even by a superior efficiency of these public structures to whose both the management of minors and of supporting administrations are given in charge. The judiciary structures in Trieste, on the contrary, are known to suffer such a lacks of means and personnel staff to make it difficult for them to even fulfill their ordinary duties.

In Trieste, up to now, all reported, documented and verified cases concerning both the subtraction of children and the restrictive supporting administration, lead us to believe that a relevant part of the local measures concerning both sectors present characteristics of abuse, even serious ones.

The cases taken into analysis do actually confirm both the routine of severe – moral and material – abuses compromising the fundamental rights of the children which are taken away, of the administered adults and of their families, as well as the existences of anomalous "markets" involving foster care and supporting administrations.

Such abnormal procedures do as well cause to both the persons and the families which are subjected to these severe, true, recorded psycho-physical sufferance and patrimonial losses, with have devastating, pathogens outcomes such as the loss of civil and personal dignity, economic deprivation, privation of the housing, disaggregation of the family, desperation and induction to

commit suicide.

The principal legal rights which are directly harmed – in violation of international right, Italian right and of that of the Territory of Trieste – belong to the categories of fundamental human and civil rights, concerning family and individual dignity, freedom, protection, ownership, consent to medical treatment as well as the secrecy of correspondence.

The examined violations can be fulfilled because of both active and omission behaviors of the judiciary and administrative authorities, which would be in charge of preventing these: this leads to the possibility of charging on them severe moral, civil, criminal (including these for the crimes committed by public officers) administrative and fiscal responsibilities.

In Trieste, the systematization of such violations of the fundamental rights is justified, allowed and covered by a particular political-ideological, cult-like apparatus which has grown within local society up to permeate – even openly – the local public administrations involved in healthcare, social assistance and justice.
Its influence is mainly performed through an increasing control on relevant working places, service contracts and votes, manipulated in order to influence local life on, ad for the social, administrative, political and media level, by even proposing and appointing their own official members in the party lists or supporting their own local politicians and administrators (including these now in charge).

The supporting structures of this apparatus, as well as the its justificatory thesis concerning the violation of both personal and familiar rights, coincides with that of the communitarian, neo-institutionalizing, post-Basaglia psychiatric wing, which, here in Trieste, has – since a long time – invaded and colonized the leading centers of local healthcare and the of the left wing circles.

Among the confirmations of the harmful power of control held by this party – and of its unlawful covering or both the abuses and the local "trades" involving minors and supporting administrations – there is the evidence that even criminal reports and campaigns of the independent press concerning both single cases and the whole phenomenon, despite being perfectly supported by evidences, have never lead to corrective results, rather, to the exact contrary.

The local, judiciary, welfare and healthcare authorities in charge did, in fact, not react neither by requiting the necessary investigations nor by adopting the needed measures, as they do rather falsely, against evidence defend their own abnormal management of minors and supporting administrations, as well as being defended – or, anyways, not stopped – by local administrations, political parties and by about all the welfare organizations of civil society.

Such multiform collusion, absolutely abnormal due to its nature and extension, creates a well-seen local mechanism of reciprocal increment concerning the numeric, economic and political expansion of the reported abuses, as well as the increasing of the impunity which covers and guarantees these.

So, this is a concretely devastating, environmental feedback, which by now can only be broken by an external intervention, meaning an institutional interventions of the national and international organs in charge of granting legality, human and civil rights in both Trieste and in Italy.

The urgency of our report as well as of our request of intervention is related to the seriousness of the damages caused by the recorded violations, as well as by their constant increasing.

2. <u>abuses concerning the subtraction of minors to the families of Trieste.</u>

The affirmation that Trieste has a relevant numbers of abuses when it comes to the subtraction of minors is founded on the statistic evidence of 2001, showing a constant, abnormal numeral exceeding of their assignation to shelter homes (40% of the Italian national total) as well as on the examination of documentary evidences concerning exemplary, individual cases of severe abuse.

The analysis of this issue requires a preliminary, informative synthesis about the Italian regulation concerning minors.

2.1. The competent judiciary organs and their procedures.

In the Italian regulation, civil, administrative and criminal procedures concerning minors are all assigned to a dedicated juvenile court, which consists in a board of two professional justices and two honorary justices. A prosecution office for the juvenile court is as well instituted in each of these courts.

Minors are partially concerned by the ordinary Court's activity as well, trough the functions of the Guardianship Justice, which is a magistrate in charge of supervising foster care, trustee and other functions, which are attributed to them by law and, starting from 2004, this magistrate does also take care of supporting administrations, no matter if that involves adults or minors.
The operative procedure of the two organs is different as well.

In particular, the juvenile court collegially decides about the adoption of minors through a public judgment, following a decision which fully grants the defense of the interests of both the minor and their family before the court.

Yet, the Guardianship Justice alone decides about the assignation of minors to third parties through a decree, which is not public and at their own discretion: they may require a preliminary investigation, but this does not grant to the parts the defense of their interests before the courts.

2.2. The right to (and of) family.

The Italian legal system establishes and regulates the "Right of the minor to a family" (and so that of the family to include and protect the minor) with law 184/2003 as modified by law 149/2001.

To the person under age, law does, in fact, recognize the right (art. 1) to live, grow up and be educated within their own family, even if that family lives in poverty (in this case, State, Region and local institutions have the duty to help them) and without suffering discrimination for their gender, ethnicity, language, religion, in full respect of the cultural identity of the minor.

Foster care and adoption may then be applied only «*when the family is not capable of taking care to the growth and education of the minor*».

Foster care assigned to third parts (art. 2) is a temporary measure which can only be applied when the minor, despite public help being disposed as recorded above, results «*temporally deprived of a suitable familiar environment*» to ensure them «t*he maintaining, education, instruction and affective bonds* [a child] *needs*».

As for foster care, law shows to prefer assigning it to a family, even betterif that has children under age or, eventually, to a single person and only in absence of these it allows to assign the minor to a «*community of familiar kind*», meaning to a the so called *case-famiglia* (shelter homes).

Up to December 31st, 2006, when even this possibility was impossible to satisfy, and the minor was more than six years old, they could be assigned to a public or private foster care institution (orphanage or other) yet, preferably close to the location where their family resided.

Foster care is "disposed" (art. 4) by the local social services and can only take place after the consent of either the parents or the guardian and, if these are missing, after the consent of the juvenile court, once heard the minor to evaluate their capacity of understanding.

But the measure is "executed" by the Guardianship Justice with a decree (non a judgment) and after a preliminary investigation which, as we said, it not public and does not grant the ordinary procedural guarantees to the parts involved.

Adaptability of minors (art. 8) can, on the contrary, be declared only with a public judgment of the Court for minors of the District of the Court of Appeal in which these reside and following a trial with offers ordinary procedural guarantees of legal assistance to the minor, their parents and to eventual other relatives.

The legal conditions which must be investigated in order to declare the adaptability of minors are that they should be in a «*situation of neglect for being deprived of moral and material assistance caused by either parents or relatives obliged to provide that, unless this lack of assistance is caused by circumstances beyond control and of transitory character.*». And this is the case even when minors are assigned to foster care, other family-like communities or to public/private foster care institutions.

The actual adoption, which can be preceded by the so called "*affidamento preadottivo*" (pre-adoption foster care) dose once again take place after a public judgment following a decision of the juvenile Court and so grants all the ordinary procedural defenses.

Reports (art. 9) concerning a situations of neglect involving a minors can be freely presented by anyone. Public officers, people in charge of public service, the executors of public utility service have, on the other side, the obligation to refer these to the Public Prosecutor at the juvenile courtas soon as possible.

2.3. Certainties, uncertainties and verifications of the law.

The declarations of adaptability and adoptions themselves are then allowed by the juvenile court with a judgment and with collective decisions in which the parts are granted – since the real beginning – by a technical defense. So there reasonably is legal certainty.

On the contrary, foster care is decided in force of a decree of the Guardianship Justice, emitted after a preliminary investigation which does usually follow from a report and does not grant technical defense, nor legal certainty to the parts, as well as denying public access the decree itself.

In Italy, the assignation of minors to the about 2000 shelter homes, or to other shelter structures, does also fuel a turnover estimated as more than one billion Euro, revolving around about 20.000 juveniles (newborn, children and teenagers) hosted at a daily cost between 70-80 and 120-150 Euro per day, payed by the Municipalities.

Also, on the contrary to the rest of Europa, in Italy, only 20% of the guests it either adopted or assigned to an actual family or person, despite receiving enough requests to grant this to 50% of them.

This means these structures, along the "system" which fuels them through the judiciary and sanitary-assistance apparatus tend to both maintain the juveniles under their foster care to protect their own incomes, as well as constantly trying to obtain new minors to increase such profit. Also, institutional controls are aleatory, when not nonexistent.

The Guardianship Justice should especially center their internal and external verifications of a correct judiciary governance of the rights of minors when it comes to this kind of procedures.

Also, as reported at point 3, starting back in 2004 a parallel, analogue and as much severe situation developed as for the management of the "supporting administrations", which are once again decided by a decree of the Guardianship Justice.

2.4. Extended verification.

If the internal verification competes to the institutions, the external one is a right and duty of the organizations of civil society, as well as of independent press.

Since the foster care decrees of the Guardianship Justice are not public, the external verification must mainly found on official statistic data, certified and widespread in Italy by the ISTAT, which are grounded on certified sources such as the Ministry of Justice or other trusted institutions.

It results that the Italian Ministry of Justice has given this data to the ISTAT, dividing these per District of Court of Appeal, but only up to 2007. As for the following years, ISTAT had widespread the data for 2001, which had been provided by a public institution in Tuscany (*Istituto degli Innocenti*) and then elaborated on regional basis.

All this statistic data, certified and widespread by the ISTAT show – starting at least in 2001 – a constant, impressive anomaly in the decrees of foster care assigning minors to shelter homes issued by the Guardianship Justice of the Court of Trieste.

2.5. The anomaly of foster care in Trieste.

ISTAT data taken in account are expressed in percentages per 100.000 inhabitants of age under 18 years, on a total Italian population of about 60 million inhabitants. The District of Court of Appeal of Trieste concurs with a residing population of about 230mila inhabitants in the territory of Trieste, and one million in the remaining territory of the Region to which that is annexed.

As for Trieste, the data of 2001, 2002, 2004, 2005 and 2007 shows a percentage of assignation of minors to foster structures (shelter homes and other institutions) amounting to about 40% of the Italian national total, yet, 0% of them were assigned to families.

Even the direct, numeric data for 2011 shows an absolute prevailing of the assignation of children to "foster care services" rather than to families: 428 out of 566.

As for 2006, the year for whose the closing of the main institutes – orphanages – had been disposed, the data of the District of Trieste does, on the contrary, result as never been received by the ISTAT from neither the Ministry nor Minister of Justice by the Court of Appeal of Trieste.

From 2005 to 2007 included, the District of Court of Appeal of Trieste dis also result as having the

national primacy as of ongoing foster care procedures concerning minors.

2.6. The evidences of situations of abuse.

In Trieste, this situation of systematic, unpunished abuse concerning the judiciary-assistential and sanitary subtraction of minors to be assigned to the net of shelter homes does also result proven by two main evidences:

a) the extraordinary, numeric exceeding of the measures – even more alarming if taking into account the particular oldness of the population of Trieste – which is not justified by objective evidences of an equal, as much extraordinary, unsuitableness of the families or efficiency of the judiciary-assistanciary-sanitary structures of Trieste;

b) the fact that documented, severe cases of abuse show the emerging of systematic, planed aspects – not occasional ones – modeled on the same operative, ideological pattern which happens to be the same of the abuses recorded as for supporting administrations which, as for minors, can be summarized as follows:

−starting with their own or with a third part's initiative, one or more assistance, sanitary or police agents report to a justice the necessity to take a minor away from their family, yet, either malicious or without malice, such reports happen to be untrue;

−the analysis of such reports confirms the ideological tendencies of these agents to arbitrarily condemn family as a negative structure and to rather subtract children respect to helping their relatives to keep them;

−the subtraction may involve either only children or one or more brothers and sisters, even at different times;

−the Guardianship Justice fulfills the measures requested by these agents without correctly verify, by consultation the parts, the contents of the reports they received;

−families with economic issues are then unable to defend themselves and if they react, they end up being subjected to further abuses and, if they have more children, either social assistants take them away as well or threaten to do that in future;

−if the family is able to efficiently defend itself, local authorities of different kinds – assistance, sanitary or the police – resist through systematic, arbitrary insults or by covering their first responsibilities with new abuses and, by doing so, they consume and exhaust the economic and psychological resources, ad well as the cohesion, of the minor's family;

−in the meantime, the minor grows up in the trade-market of foster care of either shelter homes or other institutions which gain profit from their benefits, otherwise, if declared adoptable, the minor ends up fueling the trade-market of adoptions;

−this unjustified separation from the family provokes deep sufferance and clear, as well as certifiable, severe psycho-physical damages, devastating both the minors and their parents, as well as other relatives eventually involved (brothers, sisters, grandparents, other relatives).

In Trieste, among the exemplar, ongoing cases of abuse which are causing severe, objective damages to both the minor and their family, we recorded that of E.P., a newborn girl which – back in 2006 – has unlawfully been subtracted to her parents with both cheat and violence, without the subsistence of the legal conditions required for that, only to be then forced to grow up, up to now (2014) with different guardians, in spite her family tenaciously spending all its energies and economic resource to get her back, obtaining, up to now, only that their daughter has not been declared adoptable.

Among the exemplar, ongoing cases of abuse, we do also want to recall that of the step-by-step subtraction, performed along with threatens, of many children to a local businessman, once again, without offering to them the subsistence of the required legal defenses.

3. Abuses in the Italian supporting administrations.

The institute of "*amministrazione di sostegno*" (supporting administration) has been introduced in the Italian judiciary system – modifying the Code of Civil law – and in addition to the per-existing

institutes of *interdizione* (interdiction) and *inabilitazione* (incapacitation), with national law n. 6/2004, which results to be an invention of the politicized, judiciary-psychiatric environments of Trieste, active in the above mentioned, local management of minors as well.

The creators and promoters of supporting administration have falsely presented it to both the legislator and public opinion as a form of assistance for minor disabilities which is more delicate, human and respectful to a person than the measures of interdiction and incapacitation are, implying that is destined to substitute them if these result either excessive or unjustified.

In facts, law 6/2004 introduces in the governance of the disability of adults a mechanism analogue to that which already allows the above mentioned abuses in the foster care of minors.

This happens because the law has created a new juridical institution which, just like the assignation to foster care of minors, is activated at discretion of the Guardianship Justice without offering the guarantees of right of attorney and publicity (which, on the contrary, are granted in the the trials concerning interdiction and incapacitation), introducing unconstitutional norms as well as making it possible to use it as *de facto* interdiction to subtract, without defenses, adult persons to both normal life and their own families, granting enormous profits and power to the newly established structures.

This second role is the application – just like favoring the subtracting of minors to their families in order to assign them to lucrative structures – of the theories, methods and needs of the already mentioned communitarian, new-institutionalizing, post-Basaglia psychiatry wing which has taken over and has been conditioning since a long time the sanitary, welfare and political-administrative management of Trieste.

This well-known, ideological psychiatric wing has, since a long time, turned to politics, reverting the dis-institutionalization of Basaglia by creating diffuse welfare structures, which, in order to remain in function, must both obtain and maintain an increasing numbers of adults and minors, through a pharmacological, psychological and material addiction, leading these in a state of slavery disguised as a form of help.

As for minors, this reduction to addiction-slavery is put in action depriving them of the right to a family; as for adults, they are deprived of both the fundamental rights of a person and their properties using a predatory variation of the supporting administration. This system is disguised with both judiciary and semantic cheats, such as defining as “beneficiary” the administered person which actually is a victim.

3.1. Professed intention of the supporting administration.

The professed intentions of supporting administration are declared both as the reason of introductory law n. 6/2004 and in the new, specific norms which were introduced by that in the Italian Code of Civil law.

In fact, the theory behind this introductory law affirms, at article 1, n.1,that «*The present law has the finality to protect, with the less limitation possible to their legal capacity, these people which are completely or partially deprived of their autonomy when it comes to the fulfillment of daily-life functions, through either temporary or permanent supporting interventions.*»

The liberality of the principle formula «*with the less limitation possible to their legal capacity*» is only an illusion, since it actually introduces an indeterminably when it comes to “*possible*” which is extended to legitimate – as we are about to report – extreme, normative limitations as well.

The normative apparatus actually opens (artt. 404, 405, 406, 407 and following, c.c.) affirming that the goal of the new juridical institution if that of offering the assistance of a “supporting” administrator to the person «*which, due to the effect of an infirmity, meaning an either physical or psychical impairment, remains in the impossibility, even partial or temporary, to take care of their own interests*».

So, these hypothesis includes, and without apparent reason, even mentally capable subjects, which, as such, if realizing they need an administrator or another representative/mandatary are already allowed to appoint that through the specific ordinary instruments of the Code of Civil Law, without needing further judiciary procedures.

Yet, the norm concerning supporting administration reserves the appointing of the administrator to the Guardianship Justice, either following a willing request of the interested person or that of its

relatives, their guardian or trustee, but even that of the public prosecutor or sanitary-social operators which takes care of the person.

Also, the Guardianship Justice, as we already stated, does not perform this act with a judgment, but with a simple decree and holding the maximum discretionary power as for the preliminary investigation, since the specific norms do only require him to hear the person to be administered and the proposers to gain some information and to fulfill only the investigations they considers to be needed.

3.1. Distortion of right with constrictive goals and effects.

This preliminary, apparently correct, normative framework of supporting administration does, on the contrary, contain a substantial, severe distortions of right which responds to the needs and leading to the effects mentioned above, which seem – as evidently as surprisingly – to have not been noticed by the Italian legislator and which can be summarized as:

a) Lack and fundamental guarantees of the trial.

Supporting administration is, no matter what, a constrictive legal procedure which limits the rights of the person, transferring these to an administrator appointed by the Justice, exactly as in interdiction to the guardian, and as in incapacitation to the trustee.

But interdiction ed incapacitation do offer all the constitutional judiciary guarantees – included technical defense – during the consultation with the parts, a public judgment and other peculiarities.

On the contrary, supporting administration takes place with a decree in regime of willing jurisdiction, without neither granting technical defense during the consultation with the parts nor the publicity of the decision. This means it does not offer the fundamental guarantees of the trail and this alone constitutes a compromising, unconstitutional lack.

This unconstitutionality does became even more certain and obvious in these cases in which the legal procedure does not take place prior request and according to the will of the person to be administered, rather, by that of third parties or even against this person's will as well as when the decree does not transfer to the supporting administrator minor, executive proxies, but the exclusive exercise of the fundamental rights of the person they are going to administer (administration of their properties, decisions concerning healthcare, reception of their correspondence) as it happen in the judgments concerning interdiction and incapacitation.

So, because of those reasons, the logical and juridical presupposition for the constitutional and absolute legitimacy of supporting administration are that the legal procedure takes place due to the initiative and according to the will of the person to be administered, without subjecting them to the limitation of the fundamental rights typical of interdiction and incapacitation.

Yet, Italian law disposes the opposite of that, determining an inadmissible, radical damage to the right of attorney, which results in a further unconstitutionality of the norm.

b) Uncertainty and arbitrary extension of the requirements of application.

The requirements of application for both interdiction and incapacitation are limited by law (artt. 414, 415 and following; Code of Civil Law) to the permanent incapacity of a certain person to completely or partially take care of their own interest deriving from conditions of severe and habitual non-autonomy, which are certain for being clinically certified as well as precisely identified: both complete or partial mental infirmity, prodigality, habitual abuse o either alcohol or drugs, the conditions of blindness or that of being deaf and mute since birth without a sufficient education to overcome that.

On the contrary, the requirements to apply supporting administration are referred, as mentioned above, to a definition of a category which is not only new and different, but controversial and ambiguous as well, since it is nor clinic nor juridical an it does also levels different, generic situations, even omitting to explain their needed treatment differences.

In facts, the enunciated "*impossibility*", even partial or temporary, to take care of one's own interests because of an undifferentiated plurality of non-precised reasons which range from a psychic disability to any kind of infirmity and physical impairment, does actually associate random categories of non-autonomy which do not coincide with the classical judiciary category of incapacity, as well as not being associated between each other nor from the logical-judiciary side

nor from that of practical assistance.

The following, ulterior attorney uncertainties could be only corrected if integrated with norms recognizing to the psychically capable person the right to chose their supporting administrators, as well as forbidding the justice from assigning to the supporting administrators these powers which are exclusive either of interdiction or incapacitation when justified by an regular state of psychic incapacity, not by physical handicaps.

On the contrary, the norm concerning supporting administration, unconstitutionally denies even to capable subjects the right to appoint their own administrator, allowing as well the justice to assign to the supporting administrator all the powers typical of interdiction and incapacitation.

c) Violation of the freedom concerning the choice of the supporting administrator.

The norms concerning the appointment of the supporting administrator expressly deny (art. 408, comma I and II Code of Civil Law) the constitutional and natural right to effectively appoint one's own administrator or to annul this appointment even to psychically capable persons, either during the legal procedure or after that.

The will of the person to be administered is actually taken into account only if they had previously chosen their supporting administrator with either public act or confirmed private deed «*in prevision of their eventual, future incapacity*». Meaning their future, permanent psychic infirmity, whit would – on the contrary – lead to either interdiction or incapacitation. Also, the justice is non even required to execute the will of the person to be administrated if they believe there are some imprecise «*serious reasons*» to derogate that.

This way, even a capable person is prevented – in unjustified, illogical and anti-constitutional violation of their civil rights – to enforce their previously existing right to appoint by themselves an ordinary administrator, alternative and in exclusion of the supporting administrator, subtracting themselves to the action of the Guardianship Justice.

Once again, the norm itself does not require, but only invites, the Guardianship Justice to preferentially and «*when possible*», appoint the subjects which are, by nature, more suitable for this role: the non-separated spouse, the settled live-in lover, the father, mother, son or daughter, the brother or sister, a relative within fourth grade or a persona rightfully designed by the formerly living parent through their last will, public act or confirmed private deed.

So, the norm does explicitly superimposes the discretionary power of the Guardianship Justice to both the will of the capable person and the helpfulness of their relatives or eligible cohabitants, up to extend that to the faculty of excluding even the "favorable" subjects mentioned by the law itself without providing any criteria or reasons. This violates not only the will of the capable person, but even the bonds and rights of actual and factual family.

The norm itself (art. 408, IV comma) dose as well perfection this exportation of the rights of the person and family making the discretionary power of the Guardianship Justice absolute by extending it to the faculty «*when recognizing this opportunity, and in case of designation of the interested person in a case of serious need»,* to always appoint any "other eligible person" as supporting administrator, no matter if that is an individual or a public/private institution, which essentially means a social utility structure.

d) Arbitrary extension of the powers of interdiction and incapacitation

The direct norms concerning supporting administration do also present it (art. 429 c.c.) as an alternative or substitution to the measures of interdiction and incapacitation.

But among the adjournment of the applicable norms, an opposite disposition was inserted (art. 411, IV comma, Code of Civil law) which surreptitiously and contradictorily assigns to the Guardianship Justice even the personal, unconditioned power to extend to the administered person ("beneficiary") «*determined effects, limitations or decays, as set by the legal disposition concerning the interdicted or incapable person*». And, since this regulation does not exclude any of these, it includes all of them, fraudulently leveling the relevance of supporting administration to that of interdiction and incapacitation, yet, without offering the defenses related to these two procedures.

This way, the normative system allows the Guardianship Justice to surreptitiously – and at their own, absolute discretion – use supporting administration even in order to subject a capable person

to a factual interdiction or factual incapacitation, imposing that by force, in unconstitutional violation of their rights of defense and choice of the administrator, as already emphasized.

To this – yet inadmissible – faculty of the Guardianship Justice concerning the legal procedure required to establish supporting administration, should have at least, correspond an obvious carefulness in the administrative management as well as the gratuity of the functions of supporting administrator, which belong to the sector of public assistance, as well as a wider control as for the buying and selling and other acts concerning the governance of the properties belonging to the administered person which are assigned to the administrator through exclusive powers.

On the exact contrary, Italian law allows the supporting administrator to gain a massive profit, once again decided at discretion of the Guardianship Justice, as well as reducing – rather than increasing – the controls concerning the financial operations of the administrator when it comes to the property of the person they are administering.

e) The personal profit of the supporting administrator and their assistants.

As for the compensation of the supporting administrator, the disposition concerning the applicable norms refers (artt. 37 and 411 Code of Civil Law, comma I) the role of guardian, which states the gratuity of this duty, yet, it does also allows the Guardianship Justice, «*considering the entity of the patrimony and the difficulty of administration»*, to assign to the guardian, or, in this case, to the supporting administrator «*a rightful compensation»* as well as allowing them to be helped «*by one or more payed persons*», all of this at the expense of the patrimony of the administrated "beneficiary".

This way, the law lays the clear and completely inopportune presuppositions for the development of conspicuous turnovers at the expenses of the administered people.

f) Reduction of the controls concerning fiscal operation involving the property of the administrated person.

The disposition concerning applicable norms (art. 411 cc.. I comma) does also recall artt. 375 and 376 cc concerning the guardian and subjecting their financial operations – Involving the good of the person under guardianship – to the authorization of both the Court and the opinion of the Guardianship Justice. But the norm concerning supporting administration eliminates the control of the Court, assigning this authorization to the Guardianship Justice alone.

This absolutely illogical reduction of financial controls gains a clear and alarming meaning in these procedures in which the Guardianship Justice appeals to the possibility of arbitrarily assign to the supporting administrator the powers of either a guardian or a trustee, bringing once again that person out of the control of the Court.

g) Prevention of further defenses.

The appointment of an external supporting administrator entitled of the powers of interdiction does as well prevents the administered person from defending themselves through legal actions from the abuses of their own administrator. This happens since the administered person would have to ask permission to their administrator to act against them, as well as asking the very administrator to appoint and pay a lawyer and, finally, to appear in front of the court and testify against themselves.

And the administered person subjected to such restrictive bounds cannot even prevent the supporting administrator from neutralizing their protests or oppositions by having them subjected with force to both sedatives and reclusion in psychiatric asylum.

h) The lacks in the personnel staff and means to control the managements.

Despite Italian Courts notoriously suffering of such a lack of personnel staff and means to compromise the fulfillment of their ordinary duties, law n. 6/2004 omitted to provide these with the personnel staff and supplementary means needed to properly manage the new juridical institution of supporting administrations.

This omission, so severe and evident that it does not seem to be coincidental, equals to prevent both the close examinations and a proper, real controls of the Court as for the issue and management of the control administration.

i) Summary of the effects of this distortion.

Because of what stated above, there is no doubt that the Italian legislator either did not perceived or did undervalue the fact that, with law 6/2004 on supporting administration they actually approved a text on two levels, composed by a main, legitimate and opportune disposition in with is inserted a secondary disposition which, on the contrary, is unconstitutional and it allows severe abuses.

The main, legitimate disposition can, in fact, offer the normal assistance of a supporting administrator, as for ordinary needs, to the person experimenting either merely physical or minor psychic handicap which cannot nor has to be assisted through interdiction or incapacitation. And this is what indubitably happens in the cases in which the Guardianship Justice gives a correct and wise application of the main disposition only.

While the secondary disposition, meaning the system of distorted norms analyzed above does, in substance, allow the Guardianship Justice to unconstitutionally, *de facto* subject a psychically capable subject to interdiction as well ad denying, against their own will, the procedural safeguards concerning technical defense during the consultation with the parts, separating them from their family, depriving them of the fundamental rights of property, consent to medical treatment and to receive correspondence, transferring all these rights to an external "system" of professionalized supporting administrators (lawyers, accountants) and social-assistential or psychiatric structures annexed to that, which gain supply by making profit from both public money and the property of the administered person, subtracting these to them as well as to their family.

The non-publicity of decrees does also prevent anyone from verifying the exact number and identity of the subjected persons, to know the kind of delegated powers, as well as to quantify and verify the buying and selling – and the identity of the primary and successive purchasers – of the real estates belonging to the administrated persons.

So, this professional "system" does tend (just like when it comes to the foster care of minors) to generate and absorb within its turnover (through instrumental reports sent to the Guardianship Justice, often taking advantage of either their unawareness or professional imprudence, as well of their overload of work) the maximum quantity possible of persons and good to administrate.

This is how the number of supporting administrations has increased out of measure and control: by the agreement – either with or without malice – of the Guardianship Justice.

This is exactly what has happened and is happening, not out of a coincidence, in Trieste, mainly by the action of that same environment which conceived the double-binding regulation of supporting administrations, imprudently approved by the legislator with law n. 6/2004.

The analysis of the declaration of the principal inventor of this law, Triestine professor of private law Paolo Cendon, does as well confirm the main objectives of this law consisting in the systematic application of the secondary disposition, following a peculiar, ideological vision of "*espropriazione comunitaria*" (communitarian expropriation) of both life and personal properties of the administered persons in hostility to both families and these social facilities which do defend the values of person and family.

3.2. The abuses in supporting administrations of Trieste

The situation of – up to now – unpunished and systematic abuse in the judiciary-assistencial and sanitary management of supporting administrations happening in Trieste results to mainly damage elderly persons, but even youth and adult ones, as long as these benefit of good incomes of real estates, and it is characterizes and confirmed by the following specific evidences:

a) Since supporting administrators are not appointed with a public judgment, but with a decree which remains reserved, the number, nature and incomes concerning the measures can only be reconstructed putting together the news coming from the press and official declarations which, anyways, confirm enormous numbers and alarming future previsions.
According to the declaration and public notices we were able to collect, in early 2014 the supporting administrations in Trieste would have already been more than 4000, 57% of these being assigned to lawyers, 18 % to other strangers and only 25% to relatives.
From this data, we can assume the interdiction-like measures are at least 2000, which, on an average of about 5.000 euro of yearly income per each administered person would mean a turnover of 10 millions Euro for the bills of lawyers alone, yet, it seems that some lawyers received by the Guardianship Justice dozens of appointments as well, which would grant to them yearly incomes ranging from 100.000 and 200.000 Euro. Anyways, these sums are taken from the properties of the administrated persons.

During the first phase of the law's application, from 2004 to 2009, justice Carlesso seems to have issued more than 1300 measures, revealing to the press her objective to reach 25.000 persons "*in a condition of partial disability, of impossibility to move and to take care of themselves*". This number corresponds to about 10% of the residing population of Trieste (236.000 inhabitants) and to 50% of these in the age of retirement, meaning older than 68 years.

b) The Court of Trieste suffers a lack of both personnel staff and means, even when it comes to ordinary duties. In detail, the guardianship office results as having to manage, with one only employer, thousands of files for interdiction, incapacitation and supporting administration, while the role of Guardianship Justice is assigned to magistrates which are mainly busy with other judiciary functions.

c) For this reason, it appears unreasonably imprudent, if not daring, the professional behavior of these local magistrates which, in a short span of time, have collected such an high number of measures of supporting administration to became unable to exercise any suitable control on these, neither personally not through the already insufficient structures of the Court.
The exceeding number of supporting administrations in Trieste had also been addressed during the opening ceremony of the new *anno legale* (legal year) by the previous President of the Court, Arrigo De Pauli, yet, there has not been any suitable, corrective measures following that.
The starting and the increasing – in Trieste and from Trieste – of the system of interdiction-like supporting administrations, mainly assigned to lawyers, took place as long as doc. Gloria Carlesso was in charge of the duties of Guardianship Justice (2004-2010), mainly by her own initiative and under the protection of the "father" of the law, prof. Paolo Cendon.
To the Carlesso management do also belong the first, documented cases of severe abuse, including a suicide case and the criminal reports related to it, with, up to now, remain without positive responses. The duties of Guardianship Justice have then been divided between more magistrates and with different outcomes, yet, all of these are entitled of different duties as well (Antoni, Carnimeo, Picciotto, and others).

d) At the same time, and to sustain the abnormal impulse of justice Carlesso as for interdiction-like supporting administrations, in Trieste has been constituted – with public sponsorship – an association of supporting administrators mainly composed by young lawyers or apprentices and by some accountant, which are the favored receivers of an even high number of appointments, meaning the receivers of the consequent profits as well.
These "professionalized" supporting administrators use the money of the people they assist in order to, once again, fuel suppliers of goods and services chosen by themselves, often expensive ones, as well as selling the administered person's real estates – usually at a lower price respect to that either the owner or their relatives would chose – while the control of the Guardianship Justice on such expenses remains little more than symbolic, still unsuitable, and it remains this way even when it comes to the respect of the dignity of the administered person.
This way, supporting administration has became a kind of anomalous local industry which, at the expenses of an increasing number of assisted persons, offers consistent earnings to young professionals with scarce or no other works, fueling professionals and enterprises connected with them, as well as offering to the real estates market good prices, even disputable ones.

e) As recalled above, the requests to appoint "professionalized" supporting administrators holding exclusive powers on the goods, healthcare and correspondence of the administered persons hits people owning good incomes and/or real estates, as well as resulting essentially required by some sanitary, psychiatric and social operators.

f) A relevant part of the economic benefits to the third parties involved in "professionalized" supporting administrations goes to the so called "s*trutture intermedie*" (intermediary structures) which offer psychiatric-social assistance, having multiplied up to constitute a strong lobby even when it comes to political and electoral power in Trieste.

g) The professionalized organization of supporting administrators and of these local institutions supporting that does also take care of an intense campaign of commercial publicity, misguided as social assistance, in order to increase supporting administrations, presenting these as a beneficial judiciary institution that must be applied with the maximum intensity and extension.
To take care of this propaganda, the organization and its supporters recur to the press and other media, info points for the citizens, publications and meetings with magistrates, authorities and social, psychiatric and sanitary operators, as well as to other promoting and accreditation activities.
The organization does also perform an intense campaign in order to gain spying and reports concerning persons to eventually put under supporting administration, inviting even neighbors, family doctors and pharmacists to perform such reports.

h) from the specific, documented cases, a typical operation schema emerges, which is ideologically identical to that already reported as regarding to abuses in the foster care of minors, which as for supporting administrations can be summarized with the following main characteristics, which do not necessary apply to all cases:

−the person does – at least – benefit of good financial resources and/or they own a house.

−the request for supporting administration is presented by psychiatric or social operators, through reports which represent – against evidence – the person as being incapable to take care of themselves and their eventual family as unsuitable or unworthy of the duty of supporting administrator;

−the justice accepts this picture as real without further verification, and the action of the public prosecutor is merely formal;

−the justice hears the person to be administered either at the Court or with an invasive visit at their domicile;

−if the person to be administered opposes to this procedure, they are taken either by force or by deception by psychiatric operators, subjected to heavy pharmacological sedation and, eventually, confined in a psychiatric asylum, with or without the order of a TSO (*Trattamento sanitario obbligatorio*/Obligatory Sanitary Treatment), which is deliberated by the Major on demand of psychiatric operators, yet, without needing a verification of the foundation of the requirement itself;

−the justice appoints as supporting administrator a young lawyer or accountant, giving to them exclusive powers as for the goods, the choice of healthcare and the correspondence of the administered person, preventing that from even hiring an attorney;

−the supporting administrator avoids contact with the person they are administering, as well as reducing their monthly income to about 300 Euro, keeping and using the remaining part as their own compensation, as well as for administrative expenses, conduced with different criteria from these of a good family person, by hiring agencies and people chosen by themselves;

−as soon as the administered person's financial resources are about to be exhausted, the supporting administrator requests and obtains by the justice to sell the properties of the administered person, usually their house or that of their eventual family, through a private deed, either with or without onerous verifications and debate, which, if taking place, are once again conduced by people chosen by the administrator;

−if the relatives of the administered person oppose to that, they are taken out of the way being subjected themselves to supporting administrator with the same procedures;

−if the administered person doesn't give up on living nor commits suicide, they are recovered and confined in a sanitary (psychiatric or socio-assistential) asylum, where they are reduced in an often irreversible condition of addiction, and their eventual family ends up being devastated.

In interdiction-like supporting administrations both the action of the justice and of the supporting administrator dose then cause an objective – often radical and dramatic – worsening of the living conditions of the administered person and of their eventual family, ranging from the induction to death or suicide, to destroying their living conditions on both moral and patrimonial side.

The first suicide cases to be known and informally acknowledged by the Court itself (justice Carlesso) is that of young Giulio Comuzzi, on February 28th, 2007.

Among the exemplar cases of abuse which are both proven and perfectly documented, having caused objective, highly serious damages to the administered person and to their family, there is one for which, after three years of serious judiciary action, the written request presented by the administrator-lawyer has obtained that the Guardianship Justice (Carlesso) revoked her own appointment decree, recognizing the administrated person as capable, autonomous and dissenting both at the beginning and during the three years of his *de facto* interdiction, meaning that had illegally been imposed to him. The request to proceed with the revocation is subscribed and accepted by both the Justice and the public prosecutor, yet, he did not lay a criminal charge despite the serious abuse of whose the very act is both an evidence and a written confession.
Are to be considered exemplar even other cases in which is been possible freeing from interdiction-like supporting administration others persons/families as well, which were unlawfully and illicitly

subjected to that restriction despite being capable.

4. Fundamental human and civil rights which were violated and judiciary guarantees.

So, this is an extraordinary, localized example of systematic violation of fundamental human and civil rights concerning legal capacity, especially when it comes to the dignity of person to private property, consent to medical treatment and personal correspondence, of the rights of infancy and the rights and duties of family, not to mention the violation of the right of counsel for their defense.

As for this last point, after many reports and press campaigns, Guardianship Justices limited their action to formalize an address to the person to be administered to seek for an attorney, whose practical efficacy remains, yet, doubtful unless arguing against the assumed constitutionality of the actually illegitimate norms previously underlined.

In the international regulation, in that of the European Community, in that of Italy and in the regulation of the Free Territory of Trieste, the human and civil rights we mentioned are especially granted by: the Charter of the United Nations, the Universal Declaration of Human Rights, the International Convention on the Rights of Child, the International Convention on Civil and Political Rights, European Convention on Human Rights. As for Italy: by the Constitution of the Italian Republic as well as by the related norms of the Codes of Civil Law and Criminal Law. As for Trieste: by articles 4 e 5 of Annex VI of the Treaty of Peace of Paris of February 10th between Allied and Associated Powers with Italy.

5. Jurisdiction and territorial competence

This report regards the violation of human and civil rights committed by local Italian judiciary and administrative authorities against the citizens of the Free Territory of Trieste, subject to the temporary civil administration of the Italian Government under special trusteeship of the United Nations, assigned and accepted with the Memorandum of Understanding of London of October 5th, 1954 in execution of the Treaty of Peace of Paris of February 10th 1947, artt. 21, 85 and Annex VII.

The respect of this Mandate is imposed to the administering Italian Government by the specified instruments of international right, as well as by the Constitution of the Italian Republic, artt. 10 first comma and 117 first comma.

Because of this, the reported violations of civil rights committed by the Italian authorities constitute, at the same time, a subversive violation of international right, of the Italian legal system, of the European communitarian regulation as well as of that of the Free Territory of Trieste.

As for the Italian regulation, criminal investigations concerning the acts of Italian judiciary organs committed in Trieste, ex art. 11 Code of Criminal Procedure is concern of the Public Prosecutor Office at the Court of Bologna.

6. Active and passive legitimation

The present report is formed and deposited by the Movimento Trieste Libera - MTL (Free Trieste Movement) as representative of the individual and collegial, legitimate interests of a relevant part of the sovereign population of the Free Territory of Trieste.

Because of said role, as for these violations, the Movimento Trieste Libera reserves to itself both its constitution as civil part within the criminal trials somewhat originated from this report, and the promotion of class actions in the international, communitarian, Italian and Triestine pertinent Courts.

7. Requests

The Movimento Trieste Libera, which presents this report in person of its legal representative, the President, requests to all competent international, European, Italian and Triestine authorities to:

A. - put in action immediate investigations as regarding the reported facts;

B.- assuming immediate measures to cease the reported abuses, even taking into consideration the profiles of unconstitutionality of the norms, as well as reserving – even separately – to ourselves the demonstration that the Italian temporary civil administration of the Free Territory of Trieste, starting in 1954 up to nowadays, rightfully extended the general principles of the Italian regulation to our country, but did not extend any specific Italian laws to it.

Trieste, March 31st,2014.

The President of Movimento Trieste Libera

Roberto Giurastante

Assuming the exclusive criminal and civil responsibility for both this investigation and the verification of the sources and evidences mentioned in this report:

Paolo G. Parovel, investigative reporter and managing director the of newspaper “La Voce di Trieste”
