



**To the Commissar of the Italian Government
in Region Friuli Venezia Giulia**
as delegate of the powers of special trusteeship
over the Free Territory of Trieste and its international Free Port

**Request for the urgent emission of commissarial decrees
declaring the inefficacy of judgments TAR FVG No. 530/2013 and Council of State
No.1350/2014 on the Territory of Trieste under trusteeship**

presented by Roberto Giurastante, citizen *de iure* of the Free Territory of Trieste, as current President of the Free Trieste Movement and as himself.

premising

that the Movimento Trieste Libera – Gibanje svobodni Trst – Bewegung Freies Triest – Free Trieste Movement acts as international legal personality representing the legitimate rights and interests of the citizens of the current Free Territory of Trieste through the more than 20,000 signatures it has already collected for this purpose;

that 15,000 of said signatures have already been sent to the Security Council of the United Nations, direct international guarantor of the Free Territory, in order to archive the restoration of the correct special trusteeship of the Free Territory of Trieste as regulated by the pertinent mandate, even by substituting the administering Government, and to protect the interests of the International Community of States to the complete, correct and undisturbed functioning of the international Free Port of Trieste;

that the Free Territory of Trieste has been established and regulated with the Treaty of Peace of Paris of February 10th, 1947, in force, as an independent State, *de iure* a Member of the United Nations, under direct protection of the Security Council, provided with an international Free Port and a provisional regime of Government until the establishment of the permanent regime;

that the pertinent norms of the Treaty of Peace are articles No. 4, 21, 22, 48 sub-paragraph 5, 78 sub-paragraph 7, 79 sub-paragraph 6 g) and Annexes: I – Maps; VI – Permanent Statute of the Free Territory of Trieste; VII – Instrument for the Provisional Regime of the Free Territory of Trieste; VIII – Instrument for the Free Port of Trieste; IX – Technical Dispositions Regarding the Free Territory of Trieste; X – Economic and Financial Provisions Relating to the Free Territory of Trieste;

that at the coming into force of the Treaty, since September 15th, 1947, Italian sovereignty over the area has ceased once and for all and the Free Territory of Trieste has been rightfully established as sovereign State under a provisional regime of government, temporarily entrusted to the Allied Military Commands there present, which did therefore take care to establish the first Government of the new State and to create its other institutions and bodies;

that this regime of provisional government has the status of a special trusteeship under the control of the Security Council of the United Nations and it is entrusted to a provisional Government, since it consists in the temporary administration of a State that has already been established;

that this special trusteeship differs from the ordinary trusteeships of territories that have not become a State yet which, therefore, were entrusted to another State under the supervision of the United Nations Trusteeship Council;

that the obligations of the Government entrusted with the special trusteeship mandate for the Free Territory of Trieste are defined at Annex VI – Permanent Statute of the Free Territory of Trieste and at Annex VII – Instrument for the Provisional Regime of the Free Territory of Trieste; Article 2, sub-paragraphs 3 and 4 of Annex VII establish the obligation to apply in the Provisional Regime the compatible norms of the Permanent Statute;

that said compatible norms of the Permanent Statute, to be applied in the Provisional Regime do especially regard: the demilitarisation and neutrality of the Free Territory (Article 3); its democratic legal order as for Human Rights and Fundamental Freedom (Article 4) Civil and Political Rights (Article 5); the right to citizenship (Article 6); the Official Languages (Article 7); the State insignias (Article 8); the structure and representativeness of the Organs of Government (Articles 9 and 29); the principles of Constitutional law (Article 10); the structure of Legislative Authority (Articles 14, 15, 16); The direct and exclusive responsibility to the Security Council (Articles 17 and 25, which includes the principle of international arbitration for the Free Port included in Article 24 of Annex VIII); budget (Article 21); Special Powers and Pardon (Articles 22 and 23); Foreign Relations (Article 24); Appointment and Removal of Administrative Officials (Article 26); Public Security and police forces (Articles 27 e 28); Railways (Article 31); Commercial Aviation (Article 32); maritime registers for the Territory and the other States (Article 33); the international Free Port (Article 34); freedom of transit of the goods between the Free Port (Article 35); the interpretations and the amendment of the norms, including the right to petition (Articles 37 e 36);

that the Provisional Regime of the Free Territory of Trieste must as well apply the provisions of Annex IX on Technical Dispositions and these of Annex X on Economic and Financial Provisions and, in particular: the norms on the obligations of Italian public or private social insurance organizations (Article 7), the rights and payment of Italian civil or military pensions (Article 8) and of the rights on industrial, literary and artistic property (Article 18); the fiscal law that, at Article 5, exempts the Free Territory from the payment of the Italian public debt; the norm on the property or revenues and State Property of the Free Territory which transfers, without payment, Italian State and para-statal property to the in the Free Territory (Article 1), and the complementary norm of Annex VIII, Article 2,

sub-paragraph 2, which transfers, without payment, to the Free Port all Italian state and para-statal properties within its limits;

that the Treaty of Peace, and along with it, the recognition of the Free Territory of Trieste as sovereign State are a legal and binding part of the Italian legal system under Law e vincolante dell'ordinamento giuridico italiano in forza della Law No. 811 of August 2nd, 1947, authorizing the Government of the Republic of Italy to ratify the Treaty; Legislative Decree of the Temporary Head of State No. 1430 of November 27th, 1947, executing the Treaty; Law No. 3054 of November 25th, 1952 ratifying Legislative Decree No. 1430 of November 28th, 1947 and of Articles 10, sub-paragraph 1 and 17, sub-paragraph 1 of the Constitution of the Republic of Italy;

that the Treaty of Peace is a multilateral normative treaty, therefore not a contractual treaty. Due to this, it can only be amended with the formal consent of all the Signatory States and of their Successors, under the rules and procedures of international law, as codified - in particular - in the Charter of the United Nations of June 26th, 1945, in the Vienna Convention on the law of treaties and in the Helsinki Final Act of the the Conference on Security and Co-operation in Europe of 1975;

that, therefore, the only modification of the Treaty of Peace affecting the Free Territory of Trieste is the one occurred in 1991-92, with the international recognition of the new independent States of Slovenia and Croatia within their current borders, since it did *ipso facto* limit the current extension of the Free Territory of Trieste to its main area, consisting in the city and international Free Port of Trieste and by five municipalities nearby;

that in 1954, following the difficulties in establishing the permane regime of government due to the strategic problems of the Cold War, the special trusteeship over the current Free Territory of Trieste was transferred from the Allied Commands to the Italian Government (not to the State of Italy) under the form of a temporary civil administration, invested with the same powers and duties as before towards both the Free Territory of Trieste and the Security Council of the United Nations;

that this handover took place through an appropriate, additional executive instrument of the Treaty of Peace, which was therefore written in the subordinate form of a Memorandum of Understanding between the ceding and receiving entrusted Governments, who undersigned it in London on October 5th, 1954 and it was formally notified to the responsible Security Council of the United Nations;

that, therefore, this executive instrument did entrust to the Head of the Italian Government the role of provisional Governor of the current Territory of Trieste that was previously assigned to the Head of the Allied Military Government of the Free Territory of Trieste (AMG FTT) and, therefore, also the role and obligations of an international officer of the United Nations, as ruled by the Treaty (Annex VI, Articles 17 and 25) to whoever carries out the duties and functions of Governor and to the staff they delegate to execute these;

that the new provisional Government - the Italian Government - assigned the the legislative and administrative powers of the special trusteeship over the Free Territory of Trieste to a special officer, the “*Commissario Generale per il Territorio di Trieste*” (General

Commissar for the Territory of Trieste), a new Italian officer appointed under the Decree of the President of the Republic - DPR 27.10.1954, and they did efficiently carry out the special powers of trusteeship delegated to them;

that with Constitutional Law No. 1/1963 the Italian Parliament did intentionally recognize the legal status of the Free Territory of Trieste entrusted, under a special trusteeship mandate, to the Italian Government, by aggregating, only for matters of administration, the Municipalities of the current Free Territory (Article 2) to Region Friuli Venezia Giulia and transferring the function to exercise, on behalf of the Italian Government, the powers of trusteeship of the Free Territory of Trieste from the previous General Commissar for the Territory of Trieste to the newly established Commissar of Government in the Region (Article 70);

that for said reasons, the Commissar of Government in Region Friuli – Venezia Giulia, does not only exercise, on behalf of the Government of the Republic of Italy, the ordinary powers of their office in the part of the region under the sovereignty of the Republic of Italy (Provinces of Gorizia, Udine, Pordenone), but does also exercise, on behalf of the Italian Government as trustee of the Free Territory of Trieste, separate international powers, differing from the previous as for nature, origin and purpose, and consisting in the exercise of the special trusteeship over the Free Territory of Trieste itself;

that said, different and separate roles of the Commissar of Government in Region Friuli – Venezia Giulia are therefore the legal expression of the corresponding, separate and different roles of the Italian Government as Government of the Republic of Italy and as provisional Government entrusted with the administration of the Free Territory of Trieste;

that for the same reasons and in fulfillment of Constitutional Law No. 1/1963 the then General Commissar for the Territory of Trieste, Mr. Libero Mazza, with the Decree of the President of the Republic dated May 29th, 1964 was appointed Commissar of Government in Region Friuli – Venezia Giulia;

that afterwards, on the local level and on that of domestic policy, Italian authority did unfortunately decide to carry on a deceptive, increasing political-propagandistic and administrative action to simulate that the Free Territory of Trieste and its international Free Port had persistently remained under the Italian sovereignty established with the Treaty of Rapallo of 1920, or that they “returned” to that status either following the Memorandum of Understanding of London or the the bilateral Italian-Yugoslav treaty of 1975 - which, as such, had no legal effect on third States, including the Free Territory of Trieste itself;

that this illegal political-administrative action, carried out in the name of the Republic of Italy, but in violation of its own Constitution, has caused and causes serious violations of international law, of the rights of the sovereign population, of the citizens and the enterprises of the Free Territory of Trieste, of the rights of all States to the free, indiscriminate use of the international Free Port of Trieste and to take part in its management under the provisions of the Treaty of Peace;

that, at the same time, the Italian Government had to respect the inviolability of the international laws which established the Free Territory of Trieste continuing to exercise the

special trusteeship through legal provisions taken with these powers, either directly or through the Commissar of Government in Region Friuli-Venezia Giulia, especially on matters involving rights and interests of other States, like the extension of the international Free Port of Trieste and the “*Fondo Trieste*” (Counterpart Funds), established in 1955 with funds from the United States and budgets of the Free Territory, then attributed to the Commissar of Government;

that by efficiently exercising said special legislative powers, the Italian Government and its Commissar of Government recognize to be enforcing the special trusteeship of the Free Territory of Trieste under the mandate of the Security Council of the United Nations, in execution of the Treaty of Peace of Paris of 1947, and consequently they recognize that Italian sovereignty over the current Free Territory of Trieste does no longer exist since it ceased on September 15th, 1947;

that the latest of said measures is Decree No. 19/8-3/2014 Of January 8th, 2014, with which the Commissar of Government has prolonged the temporary opening of a portion of street within the customary border of the international Free Port of Trieste;

that the latest provision with which the Italian Parliament has confirmed, once again, the lack of its sovereignty over the Free Territory of Trieste since 1947 is Law No. 190 of december 23rd, 2014, which, at sub-paragraph 614 recognises that any change in the areas of the international Free Port of Trieste falls under the exclusive, special competence of the Commissar of Government, under the powers of special trusteeship they received with Constitutional Law No.1/1963, Article 70;

that this question has already been referred to the Commissar of Government with an act presented on March 10th, 2015 (“*Request of legal measures concerning taxation, to be rightfully enforced at the earliest possible time with the entrusted powers for the special administration of the Free Territory of Trieste assigned to this Commissar of Government under Article 70, sub-paragraph 1 of Constitutional Law No. 1/1963, and annexes*”) to which this act does expressly refer to;

that on December 30th, 2014, with declarations following from these acts, the Commissar of Government-in-Office herself confirmed to be aware to have and exercise said powers, which are part of the special trusteeship over the Free Territory of Trieste, previously exercised by the General Commissar and by the Allied Military Government, and have nothing to do with the exercise of Italian sovereignty;

remarking

that to validly exercise the powers of civil, criminal, administrative and fiscal justice over the Free Territory of Trieste, the judicial bodies provided for by a third State, in this case the Republic of Italy, must receive a regular, official mandate from the entrusted Government, either directly or through the delegated Commissar of Government;

that whenever they did not receive this official mandate, their acts and provisions cannot have legal efficacy on the territory and towards the citizens and enterprises of the Free Territory of Trieste;

that the obligation to declare, by their own initiative or upon request of a party, the consequent legal inefficacy of said acts and provisions vitiated by absolute lack of jurisdiction falls under the competences of the Government entrusted with the special trusteeship, directly or through the delegated Commissar of Government;

taking into account

that on October 28th, 28.10.2013 the Regional Administrative Court of Friuli-Venezia Giulia issued, on the matter of the sovereignty of the Free Territory of Trieste, and the consequent illegitimacy of regional elections of Friuli-Venezia Giulia held on that territory under Italian electoral law, the negative judgment No. 530/2013 (**Annex 2**) confirmed on March 19th, 2014 by the Council of State of the Republic of Italy with its judgment No. 1350/14 (**Annex 2**), ordering the payment of legal expenses the claimant 57 citizens de iure of the Free Territory of Trieste and the main appellant and the appellants *ad adiuvandum*.

that the above mentioned judgement TAR FVG has rejected - with reasons without legal basis, yet, confirmed by the Council of State - the absolute exception of jurisdiction, and it has simulate the jurisdiction of the Republic of Italy by claiming, against truth, in conclusion, as fundamental and conclusive argument that *«the so-called Free Territory of Trieste has never existed and does not presently exist»*, that the questioned Constitutional Law No. 1/1963, including in Autonomous Region Friuli-Venezia Giulia also the Municipalities constituting Zone A of the FTT did *«simply confirmed and reinforced in various ways Italy's sovereignty over zone A of the territory of Trieste which was already set forth in the above-mentioned Memorandum of London, reaffirmed the fact that the Free Territory was not created and recognised at the same time Yugoslavia's sovereignty over zone B.»*, and that this would be then confirmed again by following treaties and agreements;

that the judgment TAR FVG itself is part, as it was not amended by the Council of State, this radical judicial aggression to the rights of the citizens of the Free Territory of Trieste with serious historical-political reflections and proposing the repression of the civil and political rights of the appellants, affirming, against the truth and the law, that the claims they brought forward in their appeal go beyond the right of opinion and are subversive against the State of Italy and peace, as well as stating the consequent alleged crimes, which would lead to a term of imprisonment from 12 to 40 years;

that this is a substantial re-enforcement, in violation of the very Constitution of the Republic of Italy and of the international obligations regarding human rights, of the *«reati contro lo Stato»* (Crimes against the State) of the former Italian fascist regime and of the competent *Tribunale Speciale*, (Special Court) and, therefore, this is an act of antidemocratic judicial repression of both the appellant and of all the other citizens of the Free Territory of Trieste who support its status as a Sovereign State, as well as of any other opinion and organization disliked by the ruling powers of Italy;

that the defendant, Autonomous Region Friuli - Venezia Giulia did as well demand, with a note dated March 2nd, 2015 that the 57 appellant pay the legal expenses - for both the trial of first and second instance amounting to Euro19.000 in total;

that therefore, for all the reasons mentioned above, it is clear that both judgments are radically harmful, under all perspectives, for the rights and legitimate interests of the sovereign population, of the citizens as individuals and of the enterprises of the Free Territory of Trieste, and, by going as far as denying its legal existence, these do as well deny the related rights of the other States to the free, indiscriminate use of the of the international Free Port of Franco and to take part in its management under the provisions of the Treaty of Peace;

considering

that for those reasons, both judgments, as themselves and as long as these are falsely considered valid and legally efficacious by other judicial and administrative bodies in the Free Territory of Trieste, can cause further severe and irremediable damages to the rights and the legitimate interests of the sovereign population, the citizens and the enterprises of the Free Territory of Trieste, and to the rights of all the States to the free, indiscriminate use of the of the international Free Port of Franco and to take part in its management under the provisions of the Treaty of Peace;

that the entrusted Italian Government and the Commissar of Government it has delegated to exercise the powers of special trusteeship over the current Free Territory of Trieste do, because of their role, the institutional duty to defend those rights and to protect these from any incumbent threaten;

requests

that the Commissar of the Italian Government in Region Friuli-Venezia Giulia, for her role of officer delegated to exercise the powers of special trusteeship over the Free Territory of Trieste and its international Free Port, entrusted from the Security Council of the United Nations to the Italian Government, in person of the Head of the Government itself;

to urgently issue

the rightful decrees recognizing and declaring the legal inefficacy of judgements No. 530/2103 of the Regional Administrative Court of Friuli Venezia Giulia and No. 1350/14 of the Council of State of the Republic of Italy for absolute lack of jurisdiction over the current Free Territory of Trieste under trusteeship and over its sovereign population, enterprises and the rights of all States to a free, indiscriminate use of the international Free Port of Trieste and to its management under the pertinent norms of the Treaty of Peace of Paris of February 10th, 1947.

Precising that to the omission or delay in issuing the rightful legal provisions here requested will be followed by a direct complaint to the international guarantor of the sovereignty and independence of the Free Territory of Trieste.

Instead, the eventual denial of said rightful provisions here requested will be considered as a renounce to the special trusteeship mandate on the Free Territory of Trieste by the Commissar of the Italian Government and on behalf of the Government itself.

Trieste, April 1st, 2015

Roberto Giurastante
President of the Free Trieste Movement

Two documents annexed, *ut supra*

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