**Avv. Walter Zidarich**
Via Pier Luigi da Palestrina 8, 34133 - Trieste
e-mail: zidarich@tiscali.it - p.e.c. walter.zidarich@pectriesteavvocati.it

# TO THE SUPREME COURT OF CASSATION

## FIRST CIVIL SECTION

## APPLICATION FOR ANNULMENT

pursuant to Art. 391-*bis* of the Italian Code of Civil Procedure
of Order No. 8671/2026 of 16 December 2026

[SG/2026/LC/WS-I-Cass-en]

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 Predstavništvo 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 rights and legitimate interests of the citizens *de jure*, of the residents, of the enterprises, and of the organizations of the Free Territory of Trieste and of other States (Italian Fiscal Code: 90157930323), appearing before Court represented by its General Secretary and legal representative Paolo G. Parovel, (Italian Fiscal Code: PRVPLA44H19L424C), born in Trieste on June 19th, 1944, represented and defended, pursuant to the special mandate at the end of this act, by lawyer Walter Zidarich with office in Trieste, via Pier Luigi da Palestrina 8, Italian Fiscal ZDRWTR50P22L424, office that is also chosen as address for service to receive all legal acts and communications regarding this proceeding, wither by mail of by fax and phone, at No. 040/2410914 or by Italian certified emails (p.e.c.): walter.zidarich@pectriesteavvocati.it

**2) Paolo G**. **Parovel**, born in Trieste on 19 June 1944, who appears in this proceeding also for himself, his heirs, and for other persons entitled, as bearer of the right and legitimate interest of a citizen *de jure* of the present-day Free Territory of Trieste, to whom Italian citizen was assigned *ex officio* and due to being subject to the tax obligations of the Italian Republic, with Italian Fiscal Code PRVPLA44H19L424C, also for his businesses registered since 1972 at the Trieste Chamber of Commerce, Industry and Agriculture as well as for his activity as journalist, which he exercises as member of the Italian Press Association since 1979, represented and defended, pursuant to the special mandate at the end of this act, by lawyer Walter Zidarich with office in Trieste, via Pier Luigi da Palestrina 8, Italian Fiscal ZDRWTR50P22L424, office that is also chosen as address for service to receive all legal acts and communications regarding this proceeding, wither by mail or by fax and phone, at No. 040/2410914 or by Italian certified emails (p.e.c.): walter.zidarich@pectriesteavvocati.it

**3) Movimento Trieste Libera** (C.F. 90132610321) with office in piazza della Borsa 7, Trieste represented by its President and legal representative *pro tempore* Mr. Roberto Giurastante, born in Trieste on 24.03.1965 (Italian Fiscal Code GRSRRT65C24L424Z), represented and defended, pursuant to the special mandate at the end of this act, by lawyer Walter Zidarich with office in Trieste, via Pier Luigi da Palestrina 8, Italian Fiscal ZDRWTR50P22L424, office that is also chosen as address for service to receive all legal acts and communications regarding this proceeding, wither by mail of by fax and phone, at No. 040/2410914 or by Italian certified emails (p.e.c.): walter.zidarich@pectriesteavvocati.it

**As well as** for the following 238 claimants, natural and legal persons, appearing through the I.P.R. F.T.T. upon their legally certified delegations, which are included in the documentation of the proceeding, all of whom are represented and defended, pursuant to the special mandate at the end of this act, by lawyer Walter Zidarich with office in Trieste, via Pier Luigi da Palestrina 8, Italian Fiscal ZDRWTR50P22L424, office that is also chosen as address for service to receive all legal acts and communications regarding this proceeding, wither by mail of by fax and phone, at No. 040/2410914 or by Italian certified emails (p.e.c.): walter.zidarich@pectriesteavvocati.it

*[omissis: the names of 238 claimants]*

**- Claimants -**

Versus:

**1**) **the Italian Government**, *Tax Identification Number - T.I.N.* 80188230587, 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, with address for service at the *Avvocatura Generale dello Stato* (Central Office of the State Legal Service), in Rome via dei Portoghesi 12, p.e.c. ags.rm@mailcert.avvocaturastato.it;

**2) the Commissioner of the Government in Region Friuli Venezia Giulia**, *Tax Identification Number - T.I.N.* 80016870323, represented by the Commissioner *pro tempore,* with registered office in piazza dell'Unità 8 - 34121 Trieste - commissariato.fvg@mailbox.governo.it, with address for service at the *Avvocatura Generale dello Stato* (Central Office of the State Legal Service), in Rome via dei Portoghesi 12, p.e.c. ags.rm@mailcert.avvocaturastato.it, for the authority and obligations laid down in *DPR* // Decree of the President of the Italian Republic of 27 October 1954 (without number) and in Art. 70 of Italian Constitutional Law No. 1/1963;

**3) The *Prefettura di Trieste – Ufficio territoriale del Governo* // Trieste Prefect Office - Territorial Office of the Government**, *Tax Identification Number - T.I.N.* 80017390321, represented by the Italian Prefetto (Prefect) pro tempore, with registered office in piazza dell'Unità 8 - 34121 Trieste - protocollo.prefts@pec.interno.it - with address for service at the Avvocatura Generale dello Stato (Central Office of the State Legal Service), in Rome via dei Portoghesi 12, p.e.c. ags.rm@mailcert.avvocaturastato.it, for the authority and obligations laid down in DPR // Decree of the President of the Italian Republic of 27 October 1954 (without number) and in Art. 70 of Italian Constitutional Law No. 1/1963;

**4) *Ministero delle Infrastrutture e dei Trasporti* // Italian Ministry of Infrastructures and Transport**, *Tax Identification Number - T.I.N.* 97532760580, represented by the Italian Minister *pro tempore*, with registered office in piazzale Porta Pia 1 – 00198 Rome - m_inf@pec.mit.gov.it, - with address for service at the Avvocatura Generale dello Stato (Central Office of the State Legal Service), in Rome via dei Portoghesi 12, p.e.c. ags.rm@mailcert.avvocaturastato.it, for its authority and obligations regarding the appointment of the President of the Trieste Port Authority and also the power to advise, supervise, and control the management of the same Port Authority, including its accounting and finances, as laid down in Italian Law No. 84/1994 and its amendments;

**5) *Autorità Portuale di Trieste, ora "Autorità Portuale di Sistema del Mare Adriatico Orientale"* // Trieste Port Authority, now "Port System Authority of the Eastern Adriatic Sea"**, *Tax Identification Number - T.I.N.* 00050540327, represented by its President or Commissioner *pro tempore,* with registered office in via Karl Ludwig von Bruck – 34143 Trieste - pec@cert.porto.trieste.it - with address for service at the Avvocatura Generale dello Stato (Central Office of the State Legal Service), in Rome via dei Portoghesi 12, p.e.c. ags.rm@mailcert.avvocaturastato.it, for the authority and obligations as laid down in Italian Law No. 84/1994, and its amendments, as well as in Art. 1 of paragraph 619 of Italian Law No. 190/2014, and its amendments;

**6) *Ministero dell'Economia e delle Finanze* // Italian Ministry of Economy and Finance**, *Tax Identification Number - T.I.N.* 80415740580 represented by the Italian Minister pro tempore, with registered office in via XX Settembre 97 - 00187 Rome - mef@pec.mef.gov.it - with address for service at the Avvocatura Generale dello Stato (Central Office of the State Legal Service), in Rome via dei Portoghesi 12, p.e.c. ags.rm@mailcert.avvocaturastato.it, for its authority and obligations deriving from the power to advise, supervision, and control the management of the Trieste Port Authority as laid down in Italian Law No. 84/1994 and its amendments, as well as the management of the *Agenzia del Demanio* // Italian State Property Agency;

**7) *Agenzia del Demanio* // Italian State Property Agency**, *Tax Identification Number - T.I.N.* 0634098100, economic public body of the Italian Ministry of Economy and Finance, represented by the Director *pro tempore*, with registered office in via Barberini 38 - 00187 Roma - agenziademanio@pce.agenziademanio.it - with address for service at the Avvocatura Generale dello Stato (Central Office of the State Legal Service), in Rome via dei Portoghesi 12, p.e.c. ags.rm@mailcert.avvocaturastato.it, for its role in the management of the *Demanio* // State Property, including the maritime State Property, of the present-day Free Territory of Trieste, sub-entrusted to the temporary civil administration of the Italian Government;

**8) *Regione Friuli Venezia Giulia* // Region Friuli Venezia Giulia,** *Tax Identification Number - T.I.N.* 80014930327, represented by the President pro tempore, with registered office in piazza dell'Unità 1 - 34121 Trieste - regione.friuliveneziagiulia@certregione.fvg.it - represented by the *Avvocatura Regionale* (Region's Legal Service), with address for service at the office of Lawyer Beatrice Croppo, for the authority and obligations as laid down in Art. 70 of Italian Constitutional Law No. 1/1963;

**9)** ***Comune di Trieste*** **// Municipality of Trieste**, *Tax Identification Number - T.I.N.* 00210240321, represented by the Mayor or Commissioner *pro tempore*, with registered office in piazza dell'Unità 4 - 34121 Trieste - comune.trieste@certgov.fvg.it - represented by the *Avvocatura Comunale* (Municipality's Legal Service), with address for service at the office of Lawyer Sara De Biaggi, ed altri, for the authority and obligations laid down Italian Law No. 190/2014, Art. 1, paragraph 619, in its amendments, as well as in other legal instruments.

**10) the Banca di Cividale** *Tax Identification Number - T.I.N.* 00249360306, *V.A.T. number* 03179070218, based in via sen. Guglielmo Pelizzo 8-1, Cividale del Friuli (UD) 33043, segreteria@cert.civibank.it, in person of its General Director Luca Cristoforetti (*Tax Identification Number* CRSLCU67M16H612Y), represented and defended by lawyer Elena Predonzani (*Tax Identification Number* PRDLNE64E58L424P) and by lawyer Fabrizia Balestra (*Tax Identification Number* BLSFRZ64D60L781A) with address for service at their Trieste office in Galleria Protti n. 2, appearing before Court under Art. 105, second paragraph of the Italian Code of Civil Procedure with Notice of Appearance dated 20 June 2020.

**- Summoned -**

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**Decision challenged:** Order of the First Civil Section No. 8671/2026, dated 16 December 2025, in case No. 23267/2024 (hearing held on 16 December, 2025), published on 7 April 2026, not yet notified.

**Subject:** determination of the legal status of the international Free Port of Trieste;unenforceability of legislative and administrative measures adopted in breach of international rights and obligations; unenforceability of unlawful agreements benefiting the People's Republic of China.

**Deadline to seek the decision's annulment:** October 7th, 2026.

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## 1. Application to the Court.

By this civil action, the 238 applicants (organizations, citizens, residents, and enterprises from Trieste and other States) request that the ordinary Italian court determine the legal force of certain international Conventions (Treaties and Agreements) to which Italy has acceded and which it has therefore implemented in its domestic legal order through State laws that, under the Constitution, rank higher than any other law in force.

On the basis of this determination, the applicants request that the Court declare unenforceable certain measures adopted by Italian authorities in breach of international rights and obligations established by those Conventions, as those enjoy a superior constitutional rank.

In particular, the rights and obligations in question regard the legal status of Trieste and of its international Free Port of Trieste, and the rights in question belong not only to the people and enterprises of Trieste, but also to other States and their enterprises, including Italy.

Accordingly, this lawsuit is not merely a local dispute, and its outcome does also have direct strategic relevance, because, as disputed in the case file, among the challenged violations there are also illegitimate port agreements that favor State-owned enterprises of the People's Republic of China.

**2. The decisions challenged.**

In judgment No. 328/2024, challenged for cassation, the judges of the Trieste Court of Appeal, like the single judge who had ruled at first instance before them, refused to carry out the requested assessment, claiming the absolute lack of jurisdiction of any Italian judge over the application brought before the Court, and declaring that it is not for the judiciary to rule on how the State exercises its sovereign duties.

As for the decisions sought from the Court, the appellate judges declined to examine of the 50 documents submitted as evidence in support of the applications, avoiding expressing a view on the merits of that evidence, and ultimately punishing the appellants by ordering them to pay inflated court fees.

In view of the above, the alleged absolute lack of jurisdiction is the sole logical basis for the entire judgment of the Court of Appeal challenged for cassation and ultimately upheld with Order No. 8671/2026 together with the imposition of a further financial penalty for the appellants. This is the Order of which the appellants are seeking the annulment.

The Court of Appeal of Trieste also claimed to have reached its conclusions concerning the absolute lack of jurisdiction independently, without relying on any prior decision of the Joint Sections of the Italian Court of Cassation.

The appeal for cassation, registered on 8 November 2024 and registered under No. 23267/2024, was assigned to the First Civil Section, which, on 28 February 2025, invited the appellants to withdraw their appeal pursuant to Art. 380-*bis* (*"Procedimento per la decisione accelerata dei ricorsi inammissibili, improcedibili o manifestamente infondati" //* "Procedure for the accelerated determination of appeals that are inadmissible, procedurally barred, or manifestly unfounded") and formally notified them of the proposal on 3 March 2025.

In doing so, the Court prematurely disclosed to the appellants the grounds on which it would dismiss their appeal, while also warning them that they would incur increased court fees if they insisted on obtaining a decision in their case.

The final decision is made at a single hearing, in chambers, that is, behind closed doors, for which the appellants were only required to submit a brief up to 10 days before the hearing takes place.

The appellants rejected this proposal, also drawing the Court's attention to the international implications of the decision in their case.

On 4 December 2025 the appellants filed the only brief they were authorized to submit: in that brief they duly introduced into the proceedings two new, decisive and supervening facts and, having explained their reasons, confirmed their requests.

The hearing in chambers took place on 16 December 2025; the Court, however, did not file its decision until 7 April 2026, three months and 22 days later, even though the decision merely reproduced that anticipated to the appellants on 3 March 2025 in an attempt to induce them to renounce their case, as well as completely disregarded the new, decisive and supervening facts that had been correctly introduced in the lawsuit.

This decision is Order No. 8671/2026, dated 16 December 2025, filed on 7 April 2026 and not yet notified, that is challenged herein through an application for revocation.

**3. <u>Factual errors constituting grounds for annulment.</u>**

Upon reviewing the case file, the appellants dispute the occurrence of the following main factual errors constituting grounds for annulment of the Order in question.

**3.1. <u>Omitted perception or consideration of the occurrence of two new, decisive, intervening facts</u>** despite their having been directly and correctly introduced and documented in the proceedings with immediate visibility and efficacy.

**3.1.1. <u>New, binding decision of the Joint Sections of the Italian Supreme Court of Cassation on the matter of jurisdiction.</u>**

Whilst our impugnation for cassation was pending before the First Section, the Joint Sections of the Italian Supreme Court adopted a decision on the matter of jurisdiction in a different area of law (international matters relating to rescue at sea), but addressing the same arguments invoked by the Court of Appeal of Trieste, specifically, the ability of an ordinary Italian judge to enforce the State's international obligations.

This is Order No. 17687/2024, dated 18 February 2025 and published on 6 March 2025, issued by the Joint Civil Sections: it ultimately demolishes those claims, confirming the full jurisdiction of any ordinary judge in matters concerning the determination and enforcement of the State's international obligations.

As is known, paragraph 1, second subparagraph of Italian Law No. 69/2009 establishes that rulings on jurisdiction issued by the Joint Civil Sections are binding on all Courts and on the parties, including in other proceedings.

For those reasons, that ruling was and remains a new intervening fact of overwhelming and decisive significance in this lawsuit as well.

Accordingly, the appellants duly took care to introduce it formally and correctly whilst the impugnation for cassation was pending, by means of the only brief they were allowed to submit under Art. 380-*bis*.1 of the Italian Code of Civil Procedure, lodged on 4 December 2025: on pages 4–6 of the Italian version, they gave this fact maximum prominence and provided a full and accurate description of it in compliance with Art. 366, paragraph 1, No. 4 of the Italian Code of Civil Procedure.

This should have enabled the Ordinary Section to become directly and effectively aware, from the case file, of the decisive occurrence of this new, binding decision of the Joint Sections, and to take notice, even on its own initiative, that it precluded any confirmation of the impugned decision of the Court of Appeal of Trieste, which invoked the absolute lack of jurisdiction.

Instead, an evident error of perception occurred: the Order now impugned for annulment completely disregards the occurrence of this new, intervening and decisive fact, despite its being correctly, immediately, and fully perceivable from the case file.

This means there can be no reasonable doubt that this is a decisive factual error that completely undermines the Order challenged by this impugnation for annulment.

As a further confirmation of the relevance of the intervening fact that the Court failed to perceive, we reproduce below the relevant passage of the brief lodged on 4 December 2025, which emphasized the aforementioned new ruling of the Joint Sections on matters of jurisdiction:

> **1. Jurisdiction.**
>
> The proposed accelerated decision on this impugnation for cassation would have consisted in the full confirmation of the impugned judgment of the Court of Appeal of Trieste together with additional court fees. That judgment had itself confirmed, together with further court fees, the decision of the sole judge of first instance challenged before it, by which the following was ordered:
>
> 1) *"declares that the Court lacks jurisdiction over the claim brought before it."*
>
> 2) *"orders the plaintiffs and the intervening parties to bear the costs of the proceedings in full (omissis)."*
>
> This decision that alleges the absolute lack of jurisdiction not only on the part of the judge seized of the case, but also on the part of any other Italian Court in relation to the subject-matter of the claim, alleging "*impossibility of exercising judicial authority where this would involve interfering with the sphere of competences assigned to other branches of the State or to other autonomous legal orders, in disputes directly involving such attributions of law, which, as such, are not even abstractly fit for judicial review*" and that "*this framing of the case renders the examination of any other question raised for that purpose unnecessary."*
>
> Any further confirmation of the declaration of absolute lack of jurisdiction relating to the subject-matter of these proceedings is now precluded *ex lege* by the subsequent contrary ruling on jurisdiction issued by the Joint Civil Sections of the Italian Court of Cassation in Order No. 17687/2024 dated 18 February 2025, which is binding on all Courts and on the parties, including in other proceedings (Art. 59, No. 1, second paragraph of Law No. 69/2009).

The consequent impossibility of reiterating or confirming the aforementioned declaration of absolute lack of jurisdiction in relation to the subject-matter of these proceedings is therefore sufficient to overturn entirely the decision challenged before the Court of Cassation, rendering the examination of any further issues raised for that purpose unnecessary.

In light of this new, decisive fact, the request for cassation with remittal of the impugned judgment is accordingly definitively confirmed, so that the court of remittal, the Court of Appeal of Trieste, may carry out the requested review of the applicable provisions of law, the outcome of which constitutes the necessary legal premise for deciding the question brought to its attention in this case on the merits.

Indeed, this lawsuit requests that the Italian judge issues a judicial determination about the validity, Constitutional primacy and effectiveness of domestic Italian laws implementing international Conventions (Treaties and other Agreements) to which Italy is a party, and, consequently, a declaration of the unenforceability of legislative and administrative measures adopted by Italian political and administrative authorities in breach of the international obligations established by those laws and of the appellants' rights and legitimate interests, following a reasoned application for interim relief seeking the suspension of the enforceability of certain of the aforementioned measures.

With Order No. 17687/2024, dated 18 February 2025, the Joint Civil Sections of the Italian Supreme Court of Cassation confirmed the full jurisdiction of the Italian courts over violations of Italy's international obligations committed by Italian political and administrative authorities to the detriment of the rights and legitimate interests of third parties, as well as over the consequent liability.

In particular, in the aforementioned Order, the Joint Sections held as follows:

a) as regarding the binding Constitutional primacy of the Italian State's international obligations within the hierarchy of sources of law, in so far as they are established by international Conventions (Treaties and other Agreements) to which Italy is a party:

*«international Conventions […] to which Italy has joined do therefore constitute a limit to the State's legislative authority and, under arts. 10, 11, and 117 of the Constitution, cannot be derogated from on the basis of the political authorities' choices or discretionary evaluations because, under the principle "pacta sunt servanda", they rank above domestic law».*

It follows, *inter alia*, that any legislative or administrative measures adopted in breach of the State's international obligations remain formally in force until repealed, but are legally unenforceable, as they conflict with higher-ranking, non-derogable provisions within the Constitutional hierarchy of sources of law.

b) as regards the nature of the Government's actions and measures subject to independent judicial review:

*«Regardless of its political motivation, Government action can never be considered outside the scope of judicial review when it goes beyond the limits that are imposed on it by the Constitution and the law».*

It follows that no Court may consider itself exempt from the obligation to exercise jurisdiction and judicial review over decisions of the executive that exceed the limits set by the Constitution and the Law of the State.

c) as regards the Constitutional function of the exercise of jurisdiction as a fundamental necessary condition of the rule of law:

*«Jurisdiction means "authority assigned to the Judiciary under law and in compliance with the Constitution for the effectiveness of the legal order itself to become enforceable", and it is "for the purposes of justice" that prevalence is placed on the necessity "that the judiciary as a whole can provide answers to legal questions"» (so the Supreme Court in case No. 5456 of 2009, see paragraphs 9.4 to 9.5)».*

### 3.1.2. Official confirmation by the Government of the United States of America that as of 1 January 2025, the international Conventions with Italy under examination in this lawsuit were in full force.

As already recalled above, the main ground of this civil lawsuit is a request for the assessment of the legal force of international Conventions (Treaties and Agreements) to which Italy has acceded and has therefore given effect within its own legal order through domestic State laws that prevail over any other law in force.

These are the Conventions detailed in the case file, to which the Government of the United States of America is also a party, with primary executive roles of both civilian and military nature.

Whilst the proceeding for cassation was pending, a new, decisive fact also arose concerning the legal force of those international Conventions.

Indeed, the Government of the United States of America confirmed, through its State Department's official publication *Treaties in Force*, that, as of 1 January 2025, both international legal instruments that are decisive for settling this lawsuit were in full force.

Those instruments of international law, implemented in the Italian legal order through domestic State laws, are the 1947 Treaty of Peace between the Allied and Associated Powers and Italy and the subordinated 1954 quadrilateral Memorandum of Understanding signed in London on 5 October 1954.

For this reason, the appellants have already taken care to introduce this new, decisive, supervening fact correctly and effectively into the pending proceedings, by means of the only brief they were authorized to lodge under Art. 380-*bis*.1 of the Italian Code of Civil Procedure, filed on 4 December 2025 and attached hereto as document No. 52; in that brief, they gave this new, decisive fact particular prominence, providing a full and accurate description of it (pages 7–9 of the original Italian document), in compliance with Art. 366, paragraph 1, No. 4, of the Italian Code of Civil Procedure.

This enabled the Court to become directly, correctly and effectively aware, from the documentation in the proceedings, of this second new, decisive, supervening fact, and to take notice, even on its own initiative, of its decisive importance for the resolution of the legal dispute.

It is evident that the official declaration of the legal force of both international instruments by a High Contracting Party, which also has special executive duties in this regard, is in itself sufficient to overcome the omission of this assessment on the part of the Italian judges, and therefore renders *ipso facto* all the adverse legal-logical grounds of the impugned judgment of second instance void, and consequently, it also precludes confirmation of that judgment by the decision on cassation.

Instead, owing to an evident error of perception, the Order for which annulment is sought completely disregards the occurrence of this new, intervening and decisive fact, despite its being correctly, immediately and fully perceivable from the case file as well.

This means that there can be no reasonable doubt that this is a second decisive factual error that logically undermines the Order challenged by this impugnation for annulment insofar as its grounds go beyond the wrongful premise of the absolute lack of jurisdiction.

Indeed, in both cases, an error of perception falls within the typical framework of a factual error constituting grounds for annulment: the error must clearly emerge from the deeds or documentation of the proceedings, without any need for interpretative investigation; it must not have been the subject of prior dispute, discussion or autonomous decision; and it must itself constitute the essential logical ground supporting the decision impugned for annulment.

Furthermore, it would be impossible to argue that a Section of the Supreme Court of Cassation of the Italian Republic has deliberately infringed a binding decision of its own Joint Sections and the Treaties and Agreements in force with the United States of America regarding the legal status of the international Free Port of Trieste, thereby also favoring the aforementioned violations to the benefit of the People's Republic of China.

For the purposes and effects of this application for annulment, we are also annexing hereto, as Document No. 53, evidence that the same international Conventions were in force on 1 January 2026, as recorded in the updated edition of the official *Treaties in Force* publication. This confirmation itself constitutes a new intervening fact, which we invite the Court to take into account.

### 3.2. Omitted perception of the explanatory summary conveyed by the titles of points 6 to 9.11 of the appeal brief.

As the second ground of the appeal for cassation against the judgment of second instance, the appellants invoked Art. 112 of the Italian Code of Civil Procedure, arguing that the judgment of second instance is null and void because the Court omitted to review and to express itself on the documentary and explanatory material in their appeal, set out in points 6 to 9.11 (pages 16–30) of their brief of appeal.

The Order we are impugning for annulment claims that this ground is inadmissible for lack of *«the transcript, or at least the synthesis of the content of the evidence that the Court of Appeal (as alleged by the appellants) has omitted, in compliance with Art. 366 paragraph 6 of the Italian Code of Civil Procedure».*

This is manifestly an error of perception, because the content of the aforementioned documentary and explanatory material of the brief of appeal apparent simply from reading the titles of each of those points, properly listed for this purpose at pages 12–13 of the application for cassation:

> *«**6.** Falsity of the evidence proposed;*
> ***7.** Absolute arbitrariness of the conclusions;*
> ***8.** The consequent extension of the lawsuit to European and international Courts. Violation of European provisions that allow and limit the enforceability of European Union Treaties to the present-day Free Territory of Trieste and to its international Free Port;*
> ***9.1.** Jurisdiction to give preliminary rulings of the Court of Justice of the European Union;*
> ***9.2.** The application of European Community Treaties to the Territory of Trieste;*
> ***9.3.** Obligation to respect the borders of the present-day Free Territory of Trieste with Italy and with Slovenia;*
> ***9.4.** Free Territory of Trieste and international Free Port;*
> ***9.5.** Limits to the enforceability of European Union Treaties;*
> ***9.6.** The limited application of European Community Treaties to the Territory of Trieste;*
> ***9.7.** The obligations and rights of European Union Member States towards the Territory of Trieste;*
> ***9.8.** The international obligations of the Italian Government;*
> ***9.9.** International obligations and obligations under European Community Law;*
> ***9.10.** Jurisdictional competence;*
> ***9.11.** Petition for referral seeking a preliminary ruling of the Court of Justice of the European Union».*

Once again, in addition to the evidence of the error of perception, it would be impossible to argue that a Section of the Supreme Court of Cassation of the Italian Republic has deliberately disregarded the matters of domestic, European, and international law addressed at each of those points of the brief of appeal.

**4. <u>Subsidiary request for a referral for a preliminary ruling to the Court of Justice of the European Union under Arts. 19, paragraph 3, letter b) of the TEU and 267 of the TFEU.</u>**

In the event that the Italian Supreme Court of Cassation, as the domestic Court of last instance, were to classify one or more of the aforementioned errors, assessed as factual errors constituting grounds for annulment, as errors of judgment or errors of law and, on that basis, reject this application for annulment (as previously occurred in a similar matter in Order No. 13417/2023 of 9 May 2023), the appellants request that the matter be referred to the CJEU for a preliminary ruling. For this purpose, they submit the following question concerning the interpretation of EU law:

> *«Whether the absence in the Italian legal order of ordinary or extraordinary remedies for legal errors other than factual errors in decisions of the Supreme Court of Cassation is compatible with the fundamental rights to an effective remedy and to a fair trial, established and protected by Art. 47 of the Charter of Fundamental Rights of the European Union, pursuant to Art. 6 TEU, and with all other relevant provisions of EU law, and whether the* "Procedimento per la decisione accelerata dei ricorsi inammissibili, improcedibili o manifestamente

> infondati" // *"Procedure for the accelerated determination of appeals that are inadmissible, procedurally barred, or manifestly unfounded", provided for in Art. 380-*bis *of the Italian Code of Civil Procedure, to which the appellants were subject in an attempt to force them to abandon their action for cassation without a trial, is compatible with the same EU laws and principles».*

This is a decisive question in the present proceedings, which also has relevant implications for domestic and international law, because the absence of such a remedy would make it impossible to correct serious legal errors committed by the Italian Supreme Court, in its role as domestic court of last instance, in the Order here impugned for annulment.

Indeed, this is an Order grounded in a wrongful decision, based on false evidence and radical misinterpretations of provisions of domestic and international law that were surreptitiously presented to the Supreme Court by the Italian authorities summoned to answer claims concerning violations of rights established by international obligations that also benefit other persons, companies, and States, including Italy.

On the basis of those errors of judgment, the Supreme Court also imposed severe financial and moral sanctions on the appellants, unfairly attributing bad faith and recklessness to their courageous legal action.

The effective exercise of the fundamental right to seek and obtain justice rests on the premise that effective remedies must be available for every decisive and demonstrable legal error, and must be accessible to anyone suffering its unjust consequences.

This means that redress must consist in setting aside the unjust legal decision grounded in erroneous premises, evident flaws, or hidden circumstances.

Within the Italian legal order, an *error in iudicando* is corrected through an appeal before the court of second instance or an appeal for cassation, while procedural errors are addressed through an appeal for cassation.

As a court reviewing the legality of decisions, however, the Supreme Court of Cassation does not reassess facts or evidence; rather, it assesses whether the law has been correctly applied and whether the reasoning underlying the decision is logical and complies with minimum Constitutional guarantees.

Furthermore, extraordinary remedies are available: in criminal cases, there is the review of the trial (*revisione del processo*, Art. 630 of the Italian Code of Criminal Procedure); for civil or administrative decisions, there is the application for annulment (Arts. 395, 396, 391-*bis*, 391-*quater* of the Italian Code of Civil Procedure; Arts. 106 and 110 of the Italian Code of Administrative Procedure), as well as third party opposition, at Art. 404 of the Italian Code of Civil Procedure; Art. 108 of the Italian Code of Administrative Procedure).

Arts. 395, 396 of the Italian Code of Civil Procedure, however limit the grounds for annulment to just six cases: willful misconduct of one party against another, forged evidence, decisive documents discovered after the decision, a factual error by the judge, conflict with another decision involving the same parties, and willful misconduct by the judge, established with a final judgment.

Art. 391-*bis* of the Italian Code of Civil Procedure, instead, limits the grounds for annulment of judgments, Orders, or court decrees issued under Art. 380-*bis* of the Supreme Court of Cassation to the factual error of the judge alone.

This is a relevant limitation, because a factual error consists only of an error of perception committed by a judge who either imagines a fact that does not exist or denies a fact that is certainly true.

Furthermore, the error must emerge directly from the acts or documents in the case, without the need for further interpretative examination; the fact must not have been the subject of prior controversy, discussion, or an autonomous decision; and the error must constitute the sole and necessary logical ground of the decision impugned for annulment.

This limitation therefore excludes errors of law, which are errors committed by a judge on the merits of the proceedings, that is, in the choice, interpretation, or application of the legal framework governing the specific case.

Within the Italian legal order, there is therefore no remedy for a possible error of law committed by the Supreme Court of Cassation; this occurrence is not common, but may arise in litigation concerning specific subject matters, as happened in the case in point.

The appellants do therefore argue that this situation constitutes a violation—and, in their case, an actual violation—of the fundamental rights to an effective remedy and to a fair trial (Arts. 24 and 111 of the Italian Constitution; Art. 47 of the Charter of Fundamental Rights of the European Union.).

Indeed, the effectiveness of a remedy does not consist in the formal correctness of a trial that produces effects regardless to their nature. Rather, it consists in the substantial outcome of a fair decision, grounded in an effective, real, and specific assessment of the facts by a third, independent, and impartial judge, in compliance with Arts. 24 and 111 of the Italian Constitution and of Art. 47 of the Charter of Fundamental Rights of the European Union, also known as the Nice Charter.

The Charter became legally binding upon the entry into force of the Treaty of Lisbon in December 2009 and has the same legal force as the EU Treaties, which themselves protect fundamental rights (Art. 6 TEU).

The absence of a remedy for possible errors of law in decisions of the Italian Supreme Court of Cassation therefore raises a question of compatibility with the fundamental

rights protected by EU Treaties, and the interpretation of the relevant provisions of those EU Treaties must be referred by the domestic Court of last instance to the Court of Justice of the European Union through the preliminary-ruling procedure provided for in Arts. 19, paragraph 3, letter b), TEU and 267 TFEU.

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For the reasons set out above, the appellants

**REQUEST**

that the Supreme Court of Cassation annul the impugned Order, including its decisions regarding court fees, fines, and any other financial burdens, and uphold the claim originally rejected; and that it order the opposing parties to pay the costs of the proceedings and the legal fees incurred at all levels of court.

The appellants also reiterate their invitation to reach an extrajudicial settlement and reserve the right to invoke, at any time, the relevant arbitration procedures and to appeal to the competent international Courts.

**Documents:**

***The following documents are attached to this application when it is filed:***

*1. Authentic copy of this application for annulment;*

*2. Mandates, dated 6 October 2026.*

*3. Authentic copy of the impugned Order of the Court of Cassation: No. 8671/2026 dated 16 December 2025;*

*4. Files containing the records of the proceedings at first and second instance and the documentation of the appeal before the Supreme Court of Cassation.*

*5. Brief submitted under Art. 380-bis.1 of the Italian Code of Civil Procedure lodged on 4 December 2025, introducing new intervening facts in the proceeding before the Italian Supreme Court of Cassation No. 23267/2024, filed as Document No. 52, annexed and recalled in this act.*

*6. New document filed as Document No. 53, annexed and recalled in this act.*

**Acts and documents on which the appeal is grounded (Art. 369 No. 4 of the Italian Code of Civil Procedure):**

Files with the documentation of the proceedings in first, second instance and the documentation of the appeal before the Supreme Court of Cassation.

Brief under Art. 380-*bis*.1 of the Italian Code of Civil Procedure lodged on 4 December 2025 and introducing new intervening facts in the proceeding before the Italian Supreme Court of Cassation No. 23267/2024, lodged in the proceeding under No. 52, annexed and recalled in this act.

New document lodged in the proceeding under No. 53, annexed and recalled in this act.

**Value of the dispute:** indeterminate.

Trieste, 06 October 2026

*[signatures: omissis]*

**MANDATES:**

*[omitted in this English translation]*

**ACKNOWLEDGEMENTS OF RECEIPT:**

*[omitted in this English translation]*