



PRESS RELEASE

Milan, October 4 2011 – CIR and its legal counsel, Prof. Vincenzo Roppo and Elisabetta Rubini, are of the opinion that the petition filed by Fininvest is a specious and unfounded attempt to retrieve a court case that is severely compromised.

Firstly, the petition is unfounded in its substance as it is based on a misleading and flawed interpretation of Criminal Court of Cassation ruling no. 35325/2007. It conceals the fact that this ruling refers to the previous Criminal Cassation ruling no. 33435/2006, which deals in greater depth with the key issue raised by Fininvest, i.e. whether in order to exercise the legal action against Fininvest for compensation CIR should first have taken action to have the Metta ruling revoked. Fininvest is of the opinion that it should have done so, and by not doing so it allegedly lost its right to bring the compensation lawsuit. However, Criminal Cassation ruling no. 33435/2006 states the complete opposite of this: *“Establishing in a criminal court that there has been an abnormal use of the legal process, which has been tainted by a corrupt agreement ... constitutes entitlement to request compensation”*; *“The application for and the resulting award of compensation ... cannot be conditioned by any extraordinary appeal in the future for revocation or by the outcome of the same. The independent character and the separate nature of the two actions, the implementation and the effects of which are consigned to entirely different levels and spheres, exclude any interference between the two and place each in its own sector, with the sole limit of not allowing the duplication of coinciding outcomes on the compensation level”* (pages 182-183). Which means: Cassation (not quoted in the Fininvest petition) is clearly in contrast with the argument put forward in the said petition.

The petition is also totally lacking in substance when it defines as anomalous and censurable (the press release uses the words “very serious”) a fact that is actually entirely normal in practice in the preparation of rulings, i.e. citing only the passages of precedents that the judge feels to be pertinent, with the omission of parts not considered to be relevant. And then suggesting that the omission was made maliciously by a judge who knew that the omitted parts were in fact pertinent and who wished to conceal them because he or she knew that they went against the argument being put forward: therefore by a judge who in this way, albeit indirectly, is accusing him or herself of a criminal offence. And because the petition is being made to the Authorities competent for taking disciplinary action against magistrates, there is the suspicion that this is precisely what the petition aims to imply. In this sense, the petition could appear to be intimidatory. Instead of entrusting what it feels to be its just case against the verdict of the Milan Court of Appeal to the decision of the Court of Cassation, following the correct and normal court procedure, Fininvest is actually making an improper accusation against the judges who ruled against it, as well as perhaps giving an implicit warning to the judges who it fears may reach another unwelcome decision in the future.

This is a translation into English of an original text in Italian

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