ITALIAN REPUBLIC

In the name of the Italian People

THE SUPREME COURT OF CASSATION

SIXTH CRIMINAL SECTION

Composed of

30119-25

Ercole Aprile Angelo	- President -	Sent. n. sez. 811/2025
Capozzi Maria Silvia	- Relatore -	UP - 17/06/2025
Giorgi Debora		R.G.N. 41145/2024
Tripiccione		
Ombretta Di Giovine		

Has pronounced the following

Judgement

on the proposed appeal

1. Giorgi Marco, born in Roma on 19/04/1973
2. Maggi Sebastiano, born in Altamura on 05/08/1966
3. Akhmerov Igor, born in Russia on 03/08/1965
4. Eam Solar Asa against:
   - Giorgi Marco
   - Maggi Sebastiano
   - Akhmerov Igor
5. Eam Solar Italy Holding srl against:
   - Giorgi Marco
   - Maggi Sebastiano
   - Akhmerov Igor
6. Società Aveleos Société Anonyme
7. Avelar Management Ltd
8. SAEM Energie Alternative srl

Against the ruling of July 4, 2024, of the Court of Appeal of Milan

Having considered the documents, the contested decision, and the appeals; Having heard the report presented by Councilor Angelo Capozzi;

Having heard the Public Prosecutor, represented by Deputy Prosecutor General Elisabetta Ceniccola, who concluded by requesting:

Annulment with referral against Marco Giorgi and Sebastiano Maggi, limited to the confiscation, dismissed as to the remainder;

Rejection of Igor Akhmerov's appeal;

Annulment with referral with respect to the provisions under Section F); Rejection of Aveleos Société Anonyme's appeal;

Annulment without referral with respect to the first ground of appeal of Avelar Management Ltd., annulment with referral limited to the determination of pecuniary damages, dismissed as to the remainder;

Annulment with referral with respect to the appeal of SAEM Energie Alternative srl, limited to the determination of pecuniary damages, dismissed as to the remainder;

having heard the defense lawyers:

- Colotti Francesco, as substitute counsel for Bongiorno Giulia, representing EAM SOLAR ASA and EAM SOLAR ITALY HOLDING SRL, who requested that their respective appeals be granted;
- Dresda Vincenzo, representing Unicredit S.P.A., who requested that the defendants' appeals be dismissed;
- Andò Bruno, as substitute counsel for Cagnola Fabio, representing UBI LEASING S.P.A., who requested that the defendants' appeals be declared inadmissible or dismissed;
- Sarandrea Agostino, as substitute counsel for Nanni Angelo, representing G.S.E. Gestore Servizi Energetici S.P.A., who requested that the defendants' appeals be declared inadmissible or dismissed;
- Attorney Massimiliano Masucci, representing Avelar Management LTD, which requested that its appeal be granted;
- Attorney Alessandra Gualazzi, representing Aveleos Société Anonyme, which requested that its appeal be granted and the appeals of EAM SOLAR ASA and EAM SOLAR ITALY HOLDING SRL be dismissed;
- Attorney Alceste Campanile, representing SAEM Energie Alternative Srl, which requested that its appeal be granted;
- Attorney Michele Laforgia, representing Sebastiano Maggi, which requested that its appeal be granted;
- Attorney Raffaele Padrone Emilio, representing Sebastiano Maggi, which requested that its appeal be granted;
- Attorney Roberto Pisano, representing Marco Giorgi, which requested that its appeal be granted;
- Attorney Chiara Padovani, also in place of Attorney Saponara Vincenzo, representing Igor Akhmerov, who requested that his appeal be granted and the appeals of the civil parties EAM SOLAR ASA and EAM SOLAR ITALY HOLDING SRL be dismissed.
- Attorney Campanile Alceste, representing SAEM Energie Alternative Srl, who requested that their appeal be granted;

HELD IN FACT

1. With a ruling dated 18/4/2019 the Court of Milan declared:

- Akhmerov Igor and Cavacece Alessandro are guilty of the crimes of aggravated fraud and conspiracy to commit forgery under counts B) and E) of the list, limited to some of the photovoltaic plants in dispute and with reference to the Second Energy Bill;

- Akhmerov Igor, Marco Giorgi, Sebastiano Maggi, and Giuseppina Pilotto are guilty of the crimes of fraud and forgery under counts D) and E) of the list, with reference to the Fourth Energy Bill and with reference to affidavits, requests for the incentive tariff, final plant technical data sheets, and flash lists of certificates of conformity;

- Akhmerov Igor and Giorgi Marco are responsible for the crime of aggravated fraud under count F).

Sentenced the aforementioned defendants to justice.

It also declared the partial extinction due to the statute of limitations of the offenses charged under Section E) with regard to the Second Energy Bill, with reference to the certified final appraisals and the final technical data sheets for the photovoltaic plants subject to the convictions for the offenses under Section B), acquitting the defendants of the remaining charges due to the lack of evidence.

It declared the liability of the companies under trial in relation to the administrative offenses charged under Legislative Decree 231/2001 to be non-existent.

It sentenced Igor Akhmerov, Alessandro Cavacece, Marco Giorgi, Sebastiano Maggi, and Giuseppina Pilotto, jointly with Avelos SA, Avelar Management, and SAEM s.r.l., to pay compensation for damages caused by the offenses under Sections B) and D) of the heading to G.S.E. S.p.A., to be settled separately, with the award of a provisional sum.

It also ordered Akhmerov and Giorgi, together with the civilly liable Aveleos SA, to pay damages to EAM SOLAR ITALY HOLDING and EAM SOLAR ASA, with provisional compensation; Akhmerov, Giorgi, and Pilotto to pay damages to Interporto Toscano Amerigo Vespucci, with provisional compensation; Akhmerov, Giorgi, Maggi, and Pilotto to pay damages to Agr.En.Fo 60 a r.1, with provisional compensation; Akhmerov to pay damages to Unicredit Spa, with provisional compensation; and Akhmerov and Cavacece to pay damages to Ubi Leasing, with provisional compensation.

Finally, it ordered the equivalent confiscation of the proceeds of the crimes referred to in counts B) and D) of the above-mentioned section.

With a ruling dated 20/01/2021, the Court of Appeal of Milan, partially reversing the decision contested by the Public Prosecutor, the civil parties G.S.E. S.p.A., EAM SOLAR ASA and EAM SOLAR ITALY HOLDING, the civilly liable parties SAEM Energie Alternative srl, Aveleos SA, Avelar Management Ltd. and the defendants, acquitted the defendants Akhmerov and Cavacece from the crime of fraud under B) due to the lack of evidence; Akhmerov, Giorgi and Maggi from the crime under D) partly due to the lack of evidence and partly due to not having committed it, as well as, with the said last formula, from point E); it partially acquitted Pilotto from the charge under D) in relation to some of the disputed plants and declared the extinction due to the statute of limitations of the conduct attributed to it

under E). The Court acquitted Akhmerov and Giorgi of the crime under F) due to the lack of charges, revoked the civil judgments against Akhmerov, Giorgi, Maggi, and Cavacece, and against the civilly liable parties Aveleos S.A., Avelar Management, and SAEM Energie Alternative srl. It revoked the civil judgments against Pilotto in favor of Interporto Toscano, and revoked the order to pay a provisional sum to GSE. It revoked the confiscation order against Akhmerov, Cavacecece, Giorgi, and Maggi of the proceeds of the crimes, recalculating the confiscable amount against Pilotto at €1,219.52.

With a ruling dated October 6, 2021, the Court of Cassation, following - insofar as relevant here - the appeals filed by the Attorney General at the Milan Court of Appeal and by EAM Solar Asa and EAM Solar Italy Holding s.r.l., annulled the contested ruling against Marco Giorgi, Igor Akhmerov, and Sebastiano Maggi in relation to counts B), D), and F), respectively, with referral for a new trial to another Section of the Milan Court of Appeal.

With the ruling of July 4, 2024, the Milan Court of Appeal, in the preface,

ruling on the appeal filed by defendants Igor Akhmerov, Marco Giorgi, Sebastiano Maggi, and the civil parties GSE S.p.A., EAM Solar Asa, and EAM Solar Italy Holding, as well as the civil parties SAEM Energie Alternative srl, Aveleos S.A., and Avelar Management Ltd, against the ruling issued on April 18, 2019, by the local court, partially reversing the decision:

- acquitted Igor Akhmerov and Marco Giorgi of the crime under count F) because the fact did not exist and, consequently, revoked the civil orders in favor of EAM Solar Asa and EAM Solar Italy Holding against the defendants and the civilly liable Aveleos S.A.;
- declared that proceedings should not be taken against Igor Akhmerov, Marco Giorgi, and Sebastiano Maggi in relation to the crimes attributed to them under counts B) and D) respectively, as they were extinguished due to the statute of limitations, confirming, in relation to the aforementioned charges, the civil orders of the sentence pronounced against the defendants and the civilly liable SAEM Energie alternative srl, Aveleos S.A., and Avelar Management Ltd in favor of the civil parties and, consequently, revoked the confiscation orders for equivalent assets ordered against the aforementioned defendants;
- rejected, to the extent of relevance here, the appeal of the civil parties EAM Solar Asa and EAM Solar Italy Holding and of the civilly liable parties SAEM Energie Alternative srl, Aveleos S.A., Avelar Management Ltd;
- Confirmed the rest of the contested sentence.

2. The aforementioned defendants, the civil parties SAEM Energie Alternative srl, Aveleos S.A. and Avelar Management Ltd, and the civil parties EAM Solar ASA and EAM Solar Italy Holding srl, filed an appeal against the ruling, with documents from their respective defense counsel and special prosecutors. The grounds for appeal are reported within the limits set forth in art. 173 of the implementing provisions of the Italian Code of Criminal Procedure.

3. The following reasons are put forward in the interest of the defendant Marco Giorgi.

3.1 With the first ground, cumulative defect of reasoning and erroneous application of articles 640-bis, 110, 40 and 43 of the Criminal Code and 27 of the Constitution in relation to the appellant's asserted criminal liability by virtue of the deemed decisive evidentiary value of the role played by Energetic Source in the supply of 18 of the 26 plants contested under section D).

The appellant's causal contribution to the fraudulent conduct, which consisted of replacing Chinese labels with European ones directly on the photovoltaic plants, has not been identified. Helios/Coppola and its closest collaborators played a fundamental and preponderant role in this fraud, without any need for intervention at higher levels.

Regarding Energetic Source's role in the fraudulent conduct, which the Court deemed the most relevant, despite acknowledging the straightforward nature of the purchase from the Chinese company and its resale to Aion, the Court failed to identify Giorgi's conscious and voluntary causal contribution to the "subsequent disguise of the panels as being of European origin, which marked the beginning of the unlawful conduct." This was especially true after stating that the fraudulent re-affixation and extension of the Factory Inspection Attestation occurred subsequently, precisely through the removal of the "Made in China - imported by Energetic Source spa" labels, with clear evidence that this operation had been carried out directly on the photovoltaic plants on Coppola's instructions.

3.2. With the second ground, cumulative defect of reasoning and erroneous application of Articles 640-bis, 110, 40 and 43 of the Criminal Code and 27 of the Constitution in relation to the appellant's asserted criminal liability due to the deemed decisive evidentiary value of the payments made by Kerself/Aion to the Chinese supplier Eopply (deemed excessive) and to the Polish company Revolution Six (deemed too modest).

Regarding the payments from Kerself/Aion to Eopply, nothing demonstrates their excessiveness; on the contrary, Coppola's statements suggest the opposite. Nor are there any anomalies in the payment delegation, at the request of Helios, itself a creditor of Kerself/Aion.

Regarding the payments from Kerself/Aion to Helios, the Court of Appeal confuses the amounts of payments made by Aion to Eopply, pursuant to the aforementioned payment delegation, with the amounts of payments made by Aion to Helios for the subsequent sale by Helios to Aion of modules sold as European (in reality the result of simulated assembly in Poland by Revolution Six). This alone is the subject of criticism regarding the excessively high selling price charged by Helios to Aion (Crotti, Fietta, and Coppola correspondence).

In any case, this circumstance does not constitute any indication for Aion—and, for it, for its CEO Giorgi—of the fraud that Coppola/Helios are carrying out through the fictitious assembly in Poland. Instead, it documents the actual added value that Helios, through its Polish factory, provides for the processing of the panels.

Regarding the payments to Revolution Six, the clear evidence is that Aion neither saw nor paid the invoices issued by Revolution Six to Helios for the fictitious assembly of materials supplied by the Chinese company Eopply. This is because, according to the fictitious interposition mechanism created by Coppola, a portion of Revolution Six's fees were incorporated into false module transport invoices issued by Revolution Six to Helios, paid by Aion as the final purchaser of the modules.

3.3. With the third ground, cumulative flaw in the reasoning and erroneous application of

Articles 640-bis, 110, 40, and 43 of the Criminal Code and 27 of the Constitution in relation to the appellant's asserted criminal liability due to the deemed decisive evidentiary value of the email of September 12, 2011, with the subject "Replacement of PV panel labels."

The conclusion that the appellant was aware of the massive and unlawful replacement of labels, as well as the reconstruction of the content of the statements made by the appellant, are manifestly illogical and reflect a misrepresentation of evidence.

Given what has already been stated regarding Energetic Source's role, evidence of the appellant's causal contribution cannot be deduced from the aforementioned email, as is the evidence that the replacement of labels occurred directly on the photovoltaic plants, on Coppola's instructions.

Specifically, with regard to the aforementioned email, the appellant's assertion that he did not read it is entirely compatible with the circumstance that he was not the direct recipient and that the communication occurred between two technical-operational individuals (Maggi and Coppola), appearing outside of Giorgi's area of expertise. Furthermore, all the red flags of fraud, which were present in previous correspondence, were removed from the email, and the content of that email is considered legitimate in that specific operational and temporal context.

3.4. With the fourth ground of appeal, cumulative flaw in reasoning and erroneous application of Articles 640-bis, 110, 40, and 43 of the Criminal Code and 27 of the Constitution in relation to the appellant's asserted criminal liability due to the deemed decisive evidentiary value of the appellant's conduct after the kidnapping of December 19, 2012.

The assertion that, after the kidnapping, Coppola, rather than being fired by Akhmerov and Giorgi, "was hired by Aion" is erroneous, given that it is undisputed that Coppola was hired by Aion around "about mid-2012," as confirmed by various witnesses at the trial and, in particular, in June 2012 (Zucca witness).

Furthermore, on December 18, 2012, Aion had been admitted to the blank composition procedure, thus being subject to public control. Thus, the alleged reaction against Coppola appears completely illogical, given that the search warrant did not indicate the plants under investigation and concerned, in addition to Aion and Helios, also and above all Ecoware, by far the most significant subsidiary in the parent company Aion's balance sheet, which was the subject of incidents of mismanagement investigated and reported by Giorgi, who, therefore, was right to relate the investigations to said incidents.

3.5. With the fifth ground, cumulative defect of reasoning and erroneous application of Articles 640-bis, 110, 40, and 43 of the Criminal Code and Article 27 of the Constitution in relation to the appellant's asserted criminal liability based on the fragmented evaluation of Coppola's statements and due to the deemed unreliability of the exculpatory statements he made towards the appellant.

The appeal highlights Coppola's unsurpassed reliability, both objective and subjective, with regard to the fraudulent scheme, the reasons for its conception and implementation, the participants, the uninvolved and unaware ones (including Giorgi and Akhmerov) and the reasons for their non-involvement, the issue of the payments made by Aion to Eopply, and the email of September 12, 2011, regarding the alleged knowledge of the massive relabeling. Furthermore, the unsurpassed verification of external evidence of an individualized nature, both declaratory and documentary, which demonstrate the deceptive suitability of Helios's

conduct to the detriment of Aion, proving Giorgi's unawareness of the existence of the fraudulent scheme. Thus, the Court of Appeal's exclusion of Coppola's complete credibility appears completely illogical, to the extent that it considers the appellant's conscious participation in the fraud under D) to be proven, based on the distortion of the evidence regarding the "out-of-market price", which in any case is unsuitable to prove the alleged awareness in relation to the requirements of art. 640-bis of the Criminal Code.

3.6. With the sixth ground of appeal, cumulative flaw in reasoning and erroneous application of Articles 640-bis, 110, 40, and 43 of the Criminal Code and 27 of the Constitutional Code in relation to the appellant's asserted criminal liability due to the deemed decisive evidentiary value of the circumstance according to which the appellant, in his capacity as CEO of Aion, purchased all of Helios's production at an "off-market price," asserted based on a misrepresentation of Coppola's statements and on the aforementioned error of law.

3.7. With the seventh ground of appeal, cumulative flaw in reasoning and erroneous application of Articles 640-bis, 110, 40, and 43 of the Criminal Code and 27 of the Constitutional Code in relation to the appellant's asserted criminal liability for eventual intent, having a specific duty to prevent others from committing unlawful conduct.

Indeed, it was Coppola—not Giorgi—who held and exercised the role of CEO of Helios, nor did Giorgi ever perform any management duties at Helios, beyond his role as a mere board member of Helios itself. Therefore, the expression "you can manage" used by Giorgi regarding Coppola has no negative connotation and does not imply any acceptance of the risk that Coppola would also engage in unlawful conduct.

3.8. An additional ground of appeal is raised alleging incorrect application of Articles 240, paragraph 1, 640-quater, 322-ter, and 578-bis of the Italian Code of Criminal Procedure and cumulative flaws in the reasoning in relation to the direct confiscation of the sums of money owned by the appellant in relation to the principle of law expressed in the provisional information on the decision taken by the United Sections on 26 September 2024. The contested judgment derived the confiscation of the sums from their mere nature as money, in the absence of any evidence or reasoning regarding the causal derivation of such sums from the crime referred to in section D).

4. The following reasons are put forward in the interest of the defendant Sebastiano Maggi.

4.1. With the first ground of appeal, lack of reasoning regarding the appellant's civil liability and the grounds for appeal raised in relation to the crime under count D).

The Court of Appeal, in violation of the principle governing the assertion of civil liability in the presence of a simultaneous declaration of the statute of limitations for the crime, reaffirmed the appellant's criminal conviction in violation of the principle of the presumption of innocence and failing to express any civil law assessment for the purposes of civil decisions (see p. 117 of the contested judgment).

Regarding the appellant's position, beyond the transcription of the charge, the judgment does not hesitate to provide reasons for the specific grounds for appeal, limiting itself to enunciating some of their themes.

The defense contested the appellant's alleged complicit role, arguing that SAEM was not involved in the procurement of the panels, the purchase of the modules, the fictitious

intermediation between the Chinese manufacturer and the European panel suppliers, and the substitution of the identifying data relating to the origin of the materials—and with all that was pertinent to the activities aimed at obtaining the incentive tariffs—the appellant's lack of involvement in the group's logic, the appellant's failure to actually carry out the activities attributed to him by the first-instance ruling, his subjective non-involvement in the contested conduct, the lack of certain evidence linking the email communicating the mobilization of workers to replace the labels on the panels to him, and the lack of actual verification of this.

The ruling failed to address these deductions, justifying the confirmation of the first ruling, in this part, with what is reported on page 115 of the ruling.

4.2. With the second ground, cumulative flaw in the reasoning regarding the alleged complicity in the crime of fraud charged under count D), as well as failure to comply with and incorrect application of Article 640-bis of the Criminal Code.

The ruling illogically affirmed the appellant's liability, despite his final acquittal "for not having committed the crime" for the falsification of the technical data sheets under count E), or for the same conduct.

In this regard, the Court of Appeal held that this decision on count E) did not preclude it, citing the principle of law regarding the possible material complicity between forgery and fraud, whereas—indeed—it was a question of application of the same principle in the specific case and against the appellant, which is a question of fact, exclusively left to the discretion of the trial judge.

In this case, the appeal ruling completely failed to address the possibility that the appellant could be held liable for the crime of fraud, having been uninvolved—not having committed the crime—in the conduct subjectively attributed to him,

·both for complicity in the crime under Article 640-bis of the Criminal Code and for forgery, given the literal wording of counts D) and E) of the indictment.

Complicity in the fraud relating to the IV Energy Bill cannot be inferred from the activity of "affixing labels concealing the Chinese origin of the panels." The Court of Appeal's finding to the contrary failed to address the alleged lack of evidence regarding the actual replacement of the panels and Maggi's material contribution.

In any case, the replacement of the labels did not and could not have had any causal impact on the disbursement of the sums, since the relevant on-site check never took place and the disbursement was achieved solely upon transmission of the false technical data sheets, of which Maggi was acquitted as he did not commit the crime.

4.3. With the third ground, failure to comply with and incorrect application of criminal law in relation to the plants for which (DI LEOS, DILEO6, ZELLA, BUFALARIA, CARLUCCI, DILEO7, DI STASI, INTERPORTO TOSCANO AMERIGO VESPUCCI S.P.A.) the 10% increase in the incentive for the European origin of the components was never requested, and therefore never obtained, thus rendering the unchanged provenance of the installed modules irrelevant, as was the communication of false data, which had no impact on the entity's asset disposal deed related to obtaining the incentive tariff, thus lacking the unjust profit.

4.4. The fourth ground of appeal alleges failure to comply with and incorrect application of criminal law regarding confiscation; a complete lack of reasoning regarding the direct nature and, therefore, the derivation from the crime of the sums seized from the appellant. The revocation of the confiscation of assets other than cash owned by the defendants who

were subject to the statute of limitations was not followed by any investigation into the direct derivation of the aforementioned sums of money (the appellant was seized for a total of €1,781,122.91), while the absence of any evidence of the defendant, an external consultant for the subcontractor "SAEM," receiving any benefit as a result of the aggravated fraud referred to in point D) is undisputed.

In any case, the Court failed to address the undisputed excess of the seized sums over the amount of the ablative measure ordered by the Court, amounting to €692,284.30.

4.5. The fifth ground of appeal alleges breach of criminal law and lack of justification regarding the amount of the provisional damages, as the quantification of damages allegedly already acquired was not justified.

5. The following reasons are raised in the interests of the defendant Igor Akhmerov.

5.1. The first ground of appeal alleges misapplication of Article 640-bis of the Criminal Code and manifest illogicality of the reasoning in relation to the existence of the facts referred to in Section D) which form the basis for the civil judgments in favor of GSE S.p.A., Interporto Toscano S.p.A., and Enfo.60 for the plants that did not request the 10% incentive contribution (Dileo5, Dileo6, Zelia, Bufalaria, Carlucci, Dileo7, DiStasi, Interporto Toscano).

In complying with the dictum of the revoking ruling, according to which "despite the possibility of separating the European bonus from the base tariff for administrative purposes, the unaltered provenance of the installed modules through the use of false documentation maintains the causal capacity to mislead the provider and characterizes the entire profit earned as unfair," the contested ruling failed to investigate the actual ineligibility of the panels for the subsidy. In the absence of such an assessment—limited to a reference to the first ruling, which was weaker on this point—the stated principle could not be applied. Moreover, confirmation of the panels' technical suitability is provided by the fact that G.S.E., pursuant to art. 42, paragraph 4-bis, of Legislative Decree no. 303 of 3 March 2011, 28 (as amended by Article 57-quater of Law No. 96 of June 21, 2017) reinstated the Enfo3, Enfo18, Enfo44, Enfo46, and Enfo71 systems for the incentive tariff, also because the modules "met specific functional and safety criteria." Neither the Tribunal nor the Court of Appeal considered this circumstance, resulting in the absence of unfair profit, given that the systems—technically suitable—were entitled to the basic tariff.

5.2. With the second ground of appeal, misapplication of Article 42 of the Criminal Code, misrepresentation, and failure to assess the evidence with regard to the appellant's liability for the crime under count B).

The contested ruling entirely replicates the first-instance ruling, which had limited itself to highlighting the appellant's senior position within Avelar Energy and the special purpose vehicles, without investigating his knowledge and intent regarding the facts in dispute, based on a completely illogical automatism and ignoring all the elements that could lead one to believe that Akhmerov was not involved—from a subjective perspective—in the events under count B). In this regard, the lower court judges misrepresented the very clear content of an email sent on December 30, 2010, by Cavacece to Akhmerov and Christnach—in which the former informed the latter of the request for incentive tariffs following the completion of the plants—alleging a hypothetical control function; as well as the subsequent email of December 31, 2010, in which Franco Maggi of SAEM congratulated his collaborators who had "worked

late into the night to make all of our goals a reality." This email exchange clearly demonstrates that the camps were completed on time, or, at best, that Igor Akhmerov was kept in the dark about any delays in their construction. Completely illogically, the ruling then assumes that the defense's argument regarding the appellant's lack of effective powers has been overturned, failing to provide supporting evidence.

5.3. With the third ground of appeal, omission and misrepresentation of evidence and manifest illogicality of reasoning in relation to the existence of the facts referred to in point B) with reference to the conviction for civil actions in favor of G.S.E. S.p.A., Ubi Leasing S.p.A., and Unicredit S.p.A.

In accepting the reconstruction underlying the Court's ruling regarding the probative value of the S.A.L.s, the ruling failed to address the defense's appeal complaints regarding the lack of technical support that should have guaranteed the consistency between the data reported in the calculations and the actual state of the works on the plants; and, furthermore, the lack of any further supporting evidence (see transport documents and Paolo Russo's email) to confirm the data reported in the S.A.L.s. Indeed, the Court distorted the content of Paolo Russo's emails, inferring from them that the parks were incomplete as of December 31, 2010, without considering the lack of unequivocal circumstantial evidence. It was unable to rely on the statements of the assisted witness Vito Losurdo, whose unreliability had been criticized by the defense and, instead, apodictically endorsed by the Court of Appeal, which misinterpreted the aforementioned statements, unjustifiably attributing to Losurdo the role of a "blockhead."

5.4. The fourth ground of appeal alleges illogical reasoning and misrepresentation of evidence with reference to Gianpiero Coppola's statements, according to which he had kept Akhmerov and Giorgi in the dark about the fraudulent scheme—which he himself had conceived and implemented within Helios S.p.A. and shared with his subordinates Bertoldo and Pilotto.

The finding of unreliability of these exculpatory statements, based on the so-called principle of divisibility of the assessment, is legally unfounded as it conflicts with the necessary requirement of independent statements, which must not concern related matters, whereas, in this case, the case concerns a single historical fact concerning the alleged falsification of the origin of the panels.

Regarding the external corroboration pursuant to Article 192, paragraph 3, of the Italian Code of Criminal Procedure, the Court, in deeming them non-existent, commits a clear internal contradiction: while it grants credibility to Losurdo, even if the corroboration is weakened, it denies it to Coppola due to the lack of "evidence of innocence."

In any case, based on the principle of presumption of innocence, corroboration cannot be sustained even for favorable statements regarding the facts of others, since mere doubt is sufficient to determine the defendant's acquittal.

However, clear evidence of Igor Akhmerov's innocence can be found in the email dated February 14, 2014, sent by Akhmerov to Coppola, filed by the defense on November 16, 2018, the content of which the Court failed to evaluate.

Even the reason why Coppola's lack of credibility is linked to his attempt to exonerate Giorgi is based on an illogical construct that, on the one hand, valorizes the top position and the related "he could not have not known", and - on the other - the assertion according to

which Akhmerov "was not interested in the organizational decisions and therefore was not informed about them".

6. In the interest of the civilly liable company Aveleos S.A., the following reasons are deduced.

6.1. The first ground of appeal alleges violation of Article 591, letter a) of the Italian Code of Criminal Procedure and cumulative flaws in the reasoning regarding the defense's complaint regarding its lack of passive legitimacy and the alleged existence of an "abuse of legal personality" by the parent company with respect to the other entities represented by Akhmerov and Giorgi.

The basis of the contested ruling, which declared the appeal on this point "inadmissible" because it was precluded by the dismissal of the appeal filed by the civil party

G.S.E. in relation to the failure to extend civil liability to SPVs, distorts the ground of appeal, which did not concern the *vacatio in iudicium* of other entities (the SPVs), but the lack of legal mechanism for attributing civil liability to Aveleos, as recognized by the Court's ruling, in the specific case.

The logical consequence of accepting the defense arguments would be to recognize the civil liability of the SPVs, which, however, for the procedural reasons expressed by the Court, could not be held accountable, as the conviction of the appellant could not therefore be considered "untouchable." Accepting the appeal of the appellant with civil liability would have entailed, at most, an affirmation of the liability of the SPVs *incidenter tantum*, which would not have been precluded at that stage, but certainly not the need to introduce a new civil liability party into the proceedings, an outcome precluded by procedural rules. As for the contextual - and moreover dissonant - assessment of the generality and "bordering on inadmissibility" of the reasons proposed, with reference to the completeness of the first-instance judgment, the objections regarding the existence of the alleged "abuse of legal personality" are reiterated, particularly with regard to the lack of the necessary *quid pluris* illogically recognized with respect to the maxims of experience known in the renewable energy sector with regard to the lack of an operational structure and the instrumental use of the companies by the sole shareholder Aveleos.

6.2. With the second ground of appeal, cumulative flaw in the reasoning in relation to the alleged violation of Article 192, paragraph 2, of the Italian Code of Criminal Procedure in the conviction of the defendants for the conduct under D), based on conjectures and elements devoid of individualizing value and in the absence of an examination of the severity, precision, and consistency of the evidence regarding the unknown facts being ascertained.

The Court of Appeal failed to evaluate the evidence constituted by the exculpatory statements of the witness pursuant to Article 197-bis of the Italian Code of Criminal Procedure, Coppola, among the 14 other relevant pieces of evidence indicated in the appeal (see page 17), stating that even a single piece of evidence, provided it is serious and precise, is sufficient to invalidate the finding of liability.

The appeal then proceeds to analyze the logical consistency of the reasoning underlying the evaluation of the available evidence (see pages 2 and following of the appeal) to affirm the lack of gravity, precision and concordance of the same and their unsuitability to lead to a pronouncement of guilt.

6.3. With the third ground, cumulative flaw in the reasoning in relation to the conviction of the defendants for the conduct under D) in relation to the evidentiary results and the criteria adopted in evaluating the corroboration of the exculpatory statements made by the witness pursuant to Article 197-bis of the Italian Code of Criminal Procedure, pursuant to Article 192, paragraph 3, of the Italian Code of Criminal Procedure.

The Court of Appeal, in assessing the subjective credibility of the witness pursuant to Article 197-bis of the Italian Code of Criminal Procedure, found Coppola, bound by the duty to tell the truth, in the face of the defense's arguments, to have failed to account for the evaluation criterion adopted, basing the lack of credibility of his exculpatory statements on elements lacking certainty without considering the specific requirements for external corroboration of this type of statement, which, according to case law, is of limited significance.

On the other hand, since these are exculpatory statements capable of establishing an acquittal, it is sufficient that they raise reasonable doubt about the validity of the prosecution's arguments. This thus reveals the illogicality of the arguments presented by the ruling, which support not the existence of a body of circumstantial evidence free from reasonable doubts about the defendants' guilt, but the lack of corroboration of "exculpatory" evidence offered by a witness obligated to tell the truth.

Otherwise, the Court could have identified the four pieces of circumstantial evidence indicated in the appeal (see p. 47) as certain, serious and precise, as they were objective in nature and not refuted by contrary elements, confirming the reliability of Coppola's exculpatory statements.

7. In the interest of the civilly liable Avelar Management Ltd. the following reasons are deduced.

7.1. The first ground of appeal alleges incorrect application of Articles 83 and 538 of the Italian Code of Criminal Procedure in relation to the appellant's joint and several liability for damages arising from the crime under count B), despite the final acquittal in criminal proceedings with regard to Mr. Cavacece. Despite the relevant considerations in the referring judge's ruling, the judge upheld the first-instance conviction against the appellant also for the crime under count B), in favor of the civil plaintiff GSE.

7.2. The second ground of appeal alleges violation of the law and cumulative flaw in the reasoning with regard to count D).

The contested ruling, in assessing the lack of credibility of Coppola's statements indemnifying Akhmerov and Giorgi, commits fundamental misrepresentations.

In particular, regarding Avelar Energy's position as a majority shareholder in Helios only in 2012 and Giorgi's awareness of the fraudulent scheme devised by Coppola, given that Avelar Energy had no interest in obtaining the incentives it had never requested or received, nor did Avelar Management, the internal provider, since the recipients of the incentives were the special purpose vehicles that owned the plants.

Moreover, the plausibility of Giorgi's failure to intervene is undermined by the lack of a response to the appeal's argument, which focused on Bertoldo's, rather than Coppola's, involvement in conceiving the fraud, as he himself claimed in his statements.

Furthermore, the inference by which the Milan Court infers Giorgi's liability conflicts with the need to exclude presumptive mechanisms from the determination of fraud by identifying

concrete indicators, which are absent in this case.

Again, similar flaws can be found in Coppola's credibility assessment, which relies on virtual reasoning, fails to consider the defense's objections in this regard, and relies on conjectures regarding the failure to impose disciplinary sanctions on Coppola, who, in any case, never again held professional positions connected to Giorgi or Akhmerov.

The assumption centered on Akhmerov is also illogical, on the one hand, deemed uninvolved in organizational decisions and, on the other, held liable on the grounds of "he could not have failed to know."

Finally, regarding the payment of invoices issued by Helios to Aion, Coppola's dismissive reaction to Aion's administrative director regarding the invoiced amounts is not at all indicative of Coppola's authorization from the "top brass," but rather an expression of the perpetrator's natural reaction.

7.3. With the third ground, violation of criminal law with reference to the complicity of Igor Akhmerov and Marco Giorgi in the fraud charged under count D); lack of correlation between the charge and the sentence due to the conviction based on an omission rather than the alleged complicity in commission, since the corresponding defect raised on appeal remained unresolved and the contested omission was reiterated.

7.4. With the fourth ground, violation of criminal law and failure to state reasons with reference to the pecuniary damage and unfair profit in relation to count D), since the Court of Appeal failed to consider the defense positions developed during the referral proceedings regarding the absence of pecuniary damage resulting from the alleged fraud due to the development of a bilateral relationship characterized by full reciprocality, within which the payment of incentives by the GSE was compensated by the efficient production of electricity.

Furthermore, the reasoning regarding the "technical unsuitability of the facilities," the subject of the ninth ground of appeal and reiterated in the brief filed during the trial, is missing, as the referral to the first decision reiterates the flaw.

Furthermore, the ruling fails to address the defense's complaints regarding the appellant's use of evidence from the separate summary judgment against Bertoldo, which the appellant had no involvement in by law.

Finally, a flaw in the lack of reasoning can be identified in the deemed

inadmissibility of the criticisms raised on appeal regarding the incompleteness of the investigations carried out at the plants involved in the dispute.

7.5. A defense note has been received on behalf of the appellant, highlighting that Avelar Management Ltd. has never been cited as having civil liability for the act referred to in point F), in relation to which an appeal for annulment is pending filed by EAM Solar. The Court of Cassation is urged to note the error contained in the operative part of the judgment issued by the referring judge, in that, after having confirmed the acquittal of Igor Akhmerov and Marco Giorgi of the crime of fraud attributed to them under point F), "it revokes the civil provisions in favor of Eam Solar Asa and EAM Solar Italy Holding against the defendants and the civilly liable parties SAEM, Avelar Management, and Aveleos S.A.", since no civil provision in relation to point F) has ever concerned Avelar Management Ltd., and therefore cannot even be revoked. Therefore, the appeal filed by EAM Solar Italy Holding S.r.l. and EAM Solar ASA cannot have any detrimental consequences on the position of Avelar Management Ltd.

8. In the interest of the civilly liable party SAEM Energie Alternative srl, the following reasons are deduced.

8.1. The first ground of appeal alleges failure to comply with Article 578 of the Italian Code of Criminal Procedure and a lack of reasoning in relation to the civil provisions, including with reference to the provisions of the Constitutional Court in its ruling no. 182/2021.

The Court of Appeal did not adhere to the principles expressed in the very recent ruling of the Supreme Court no. 36208/2024, which endorsed the provisions of the aforementioned constitutional decision, failing to assess civil liability in relation to the specific offence of tort. It adopted a purely procedural-criminal perspective, as evidenced by the ruling's distancing from the principles expressed by the Plenary Session of the Council of State on September 11, 2020, which, however, could not have been underestimated in the given context. Nor does the referral to the first-instance decision appear sufficient due to the different criteria applied by the criminal court for assessing tort of tort.

8.2. The second ground of appeal alleges a flaw in the reasoning regarding the appellant's civil liability with reference to Akhmerov's senior position within SAEM, specifically as its legal representative. None of the conduct alleged against the aforementioned defendant was attributed to the aforementioned role, but rather occurred in a different capacity as legal representative of the so-called special purpose vehicles that owned the plants and benefited from the incentives.

Furthermore, the assumption that "top management" of SAEM (including Akhmerov) carried out "the fraudulent operation of replacing the labels, as well as the false preparation of the final plant data sheets," is misleading. These conducts pertain to point D) and not point B).

Nor can the assumption be sustained that Akhmerov's liability can be generically based on his role within the Group companies, referring to a contested "responsibility by position."

8.3. With the third ground, defect in the reasoning regarding the amount of the provisional amount, following the readmission of the plants under D) to the incentive tariff.

9. In the interest of the civil parties EAM SOLAR ASA and EAM SOLAR ITALY HOLDING S.R.L. the following reasons are deduced:

9.1. The first ground of appeal alleges cumulative flaws in the reasoning for the acquittal of the defendants under count F), as evidenced by the text of the judgment and the indicated procedural documents.

The Court of Appeal criticizes the contradictory and manifest illogicality of the reasoning regarding the determination of the defendants' liability for the facts alleged under count B) and those under count F), with particular reference to the plants admitted to the Second Energy Bill. There is no reasoning for the acquittal of the defendants for the fraud committed against EAM under count F), with particular reference to the plants admitted to the Second Energy Bill.

The Court of Appeal, in defiance of the multiple indications of the Supreme Court and in the light of the detailed reasoning of the first judgment, reiterated the same logical and legal arguments as the first Appellate Judge, thus once again producing an illogical and contradictory justification.

Indeed, the reasoning of the contested sentence appears contradictory when, on the

one hand, it considers that the defendants' responsibility has been proven with reference to count B (concerning the fraud perpetrated against the G.S.E. in relation to the plants admitted to the Second Energy Bill) and, on the other, it acquits them for the facts described in count F), the first decision having an impact on the second due to the undoubted objective affinity of the conduct described in the two counts.

After reporting the Court's findings in relation to the appeals filed by the defendants under count B) (see pages 10 et seq. of the appeal), we assert the manifest illogicality of the acquittal ruling under count F, given that—in the context of the single transfer transaction—the identical artifices and deceptions committed against GSE and the same misleading were involved.

The defense's argument that EAM could have obtained additional information regarding the irregularities affecting the plants for the purposes of accessing the incentive tariffs, regardless of the omission consisting in the failure to display the search warrant and the related report of operations carried out in 2012, does not undermine the defense's logical assumption. This argument fails to address the conduct contested under count F, ignores the elements underlying the first decision, and contradicts the assertion of liability under count B). Furthermore, the argument would be valid - at most - with reference to the aspects concerning the Fourth Energy Bill since for the systems relating to the Second Energy Bill, of greater objective importance in the scam, it involves the communication to EAM of radically false documentation.

In this regard, the flaw in the reasoning is evident in the consideration of the statements of witness Losurdo, in relation to which—unlike for count B)—no reference can be found to the false statements committed in relation to the Second Energy Bill; as well as in relation to the absence of any consideration regarding the possibility of the so-called risk of "contagion" examined in the first ruling.

9.2. With the second ground, lack of reasoning in relation to the objections raised on appeal regarding the existence of the crime of fraud in relation to the "Piangevino" photovoltaic plant, sold to EAM, concerning a separate fraud segment, projection of the fraud alleged against the defendants in count C, relating to the incentives of the Third Energy Bill, with respect to which the completion of the plant was proven after the deadline established by current legislation (May 31, 2011).

9.3. With the third ground, breach of art. 627 of the Italian Code of Criminal Procedure. regarding the deemed irrelevance of the failure to display the report of the search and seizure of premises dated 19 December 2012 by the Reggio Emilia Financial Police for the purposes of the contractual fraud perpetrated against the appellants with reference to the plants admitted to the Fourth Energy Bill.

In this regard, the Supreme Court ruling had extensively ruled on the deceptive nature of the defendants' conduct during the negotiations, unequivocally confirming the deceptive nature inherent in the aforementioned failure to disclose information. However, the decision, in repeating the same error as the previous appeals court, conflicts—in clear violation of Article 627 of the Italian Code of Criminal Procedure—with the ruling of the revoking court regarding the incompatibility of the resistance test with the burden of information on the prospective seller. Nor are the case-law references made in the ruling regarding the need for a "quid pluris" beyond mere inaction for the crime of contractual fraud in its omission variant to be established.

9.4. The fourth ground of appeal is a cumulative flaw in the reasoning regarding the defendants' failure to provide information, which is a constitutive element of the fraud suffered by the appellants, as evidenced by the text of the judgment and the aforementioned procedural documents. The documents to which the lower court attributes significant informative value are in no way comparable to those omitted, as they do not contain information on the nature of the investigations and the purposes of the investigations comparable to that contained in the omitted documents, which do, however, contain crucial information for EAM. Nor can objectively dispositive effect be attributed to the correspondence between EAM and Aveleos, recounted in the appeal (see pages 40 et seq.) or to the so-called "Massimi & Fiorini Report."

9.5. The fifth ground of appeal alleges breach of Article 627 of the Italian Code of Criminal Procedure in relation to the alleged non-existence of the defendants' liability for the crime under Section F), also on the basis of the awards issued by the Milan Arbitration Chamber, with respect to which the rescinding judgment had specifically ruled to the contrary.

9.6. The sixth ground of appeal alleges breach of Article 238-bis of the Italian Code of Criminal Procedure in relation to the alleged irrevocability of the awards issued by the Milan Arbitration Chamber, despite the pending annulment proceedings.

10. A defense brief has been received on behalf of the civilly liable party Aveleos S.A., arguing for the inadmissibility or dismissal of the appeals of EAM Solar Asa and Eam Solar Italy.

11. At the hearing of March 18, 2025, the hearing was adjourned to today's hearing, with notices being served on the non-appellant civil parties GSE SPA, UNICREDIT S.P.A., UBI LEASING S.P.A., and Società agricola a R.L. Energia fotovoltaica 60.

12. A brief has been received from the civil party UBI LEASING S.P.A., arguing for the dismissal of the appeals of the defendants and the civilly liable parties.

13. A hearing notice has been received by SAEM Energie Alternative Srl in support of the revocation or suspension of the provisional order following GSE's readmission to the incentive tariff for the last two plants that had requested it.

14. At today's hearing, the objection raised by counsel for the appellants EAM Solar Asa and EAM Solar Italy Holding regarding the failure to cite the civilly liable parties Enovos Luxembourg and Avelar Energy was rejected.

CONSIDERED IN LAW

1. The appeal on behalf of Marco Giorgi is entirely unfounded and must be rejected.

1.1. The grounds of the main appeal all concern the appellant's assertion of liability for the crime under Section D), in relation to the individual arguments put forward in support of it.

1.2. The fundamental criticism formulated by the revoking judgment regarding the overturning of the first conviction must be addressed first. This criticism designates the

criterion of legitimacy, precisely followed by the contested judgment, in re-examining the grounds of appeal raised against the aforementioned judgment.

In this regard, recalling the highest nomophylactic orientation, he stated that "the acquittal reform of a first-instance conviction requires the judge to completely rebut the previous arguments, capable of undermining the first-instance judge's logical and demonstrative approach. Therefore, the appeal judge, in reforming the first-instance conviction with an acquittal, cannot avoid examining the reasons given in support of the contested decision, nor justify the complete reform by inserting generic critical or dissenting remarks into the argumentative structure of the appeal ruling; he is also required to re-examine the evidentiary material examined by the first-instance judge and any subsequently acquired material, to offer a new and complete reasoning structure that adequately explains the divergent conclusions reached. Whether or not one intends to trace this obligation back to the phrase "strengthened motivation", which plastically summarizes the need to fully explain, with an autonomous justification apparatus, the decision, it is certain that in the event of overturning of the first-instance conviction, the appeal judge is required to give an account of the different demonstrative value assigned to the evidence already examined in the first instance and to explain the logical steps that make the decision outcome legally and factually sustainable, with the necessary persuasive force (Section 6, no. 51898 of 11/07/2019, P., Rv. 278056; Section 4, no. 4222 of 20/12/2016 dep.2017, P.c. in proc. Mangano and other, Rv. 268948; Section 2, no. 50643 of 18/11/2014, P.c. in proc. Fu et al.; Rv. 261327). In this case, the territorial Court did not fulfill its obligation to provide reasons within the aforementioned terms, as the supporting documentation was affected in several parts by clear illogicalities and evaluative inconsistencies, attributable to the erroneous assessment of the acquired evidence, both declaratory and documentary in nature.

Finally, the rescinding ruling recalled that "with regard to the annulment for criminal purposes, according to the consistent jurisprudence of this Court on the subject of reviewing flaws in the reasoning, the task of the Supreme Court is not to superimpose its own assessment on that carried out by the lower courts regarding the reliability of the sources of evidence, but to establish whether the latter have examined all the elements at their disposal, whether they have provided a correct interpretation of them, giving an exhaustive and convincing response to the parties' deductions, and whether they have accurately applied the rules of logic in developing the arguments that justified the choice of certain conclusions in preference to others (United Section, no. 930 of 13/12/1995, dep.1996, Clarke, Rv. 203428). It follows that, when the defect that determines the annulment of the judgment concerns the reasoning, the referring judge retains its powers of ascertainment and evaluation intact, so that any factual elements contained in the annulment ruling are relevant as points of reference for the purpose of identifying the defect but not as data that are required for the decision entrusted to it, which can and, indeed, must proceed to a complete review of the evidentiary material, correctly applying the principles of law and the rules of logic as highlighted above.

1.3. With regard to point D), the rescinding judgment stated the following.

The Court of Appeal acquitted the defendants Igor Akhmerov, Marco Giorgi, and Sebastiano Maggi of the crime under count D) due to the lack of evidence of the crime in relation to the DileoS, Dileo6, Zella, Bufalaria, Carlucci, Dileo7, Di Stasi, Interporto Toscano, Arcadia, and Covelli fields, and for not having committed the crime in relation to the

remaining fields under the indictment. According to the appeal judges, with regard to the aforementioned fields, for which no request for recognition of the so-called European bonus has been made, the Court erroneously assumed the deceptive purpose due to the submission of false documentation, without considering that, even admitting the communication of totally or partially false information regarding the origin of the photovoltaic sails installed, access to the incentive tariff is not precluded by the non-European origin of the panels, with the consequent impossibility of characterizing the benefit of the tariff as an unfair profit from the crime. With regard to the residual plants, he argued the complete reliability of Gianpiero Coppola's statements regarding the profiles of participation in the fraud and the absence of evidence regarding the involvement of the defendants in the illicit act.[...] As also accepted by the contested sentence and extensively set out on pages 179 et seq. According to the Court's ruling, it is undisputed that companies in the Kerself-Aion group, within the scope of the plants eligible for benefits under the Fourth Energy Bill, used NEP-type photovoltaic panels. Their Chinese origin had been concealed, as they were mainly installed in sites in Southern Italy (Puglia and Basilicata). These panels entered into operation at the end of 2011 and were purchased through Energetic Source. Those that entered into operation in 2012 were supplied through the fictitious intermediation of the Polish company, Revolution Six, used to conceal the panels' non-European origin and create the appearance that the work had been carried out in Poland. Even if one were to accept the thesis supported by the Council of State's ruling in its Plenary Session of September 11, 2020, regarding the possibility of separating the European bonus from the basic incentive tariff, the territorial Court's destructive thesis is open to criticism, having incongruously undervalued the relevance of the multiple hypotheses of forgery that constitute instrumental conduct with respect to the unlawful attainment of regulatory benefits. According to the accusatory structure condensed in the indictment under D), the instrumental conduct displayed by the defendants consisted not only in the concealment of the Chinese origin of the photovoltaic modules installed by applying Made in Ve plates but also in the exhibition of "false documentation, in particular final technical data sheets of the system from which the community origin of the installed modules is revealed, flash-lists of the modules, declarations in lieu of a sworn statement, warranty certificates, serial and technical labels stuck on the modules, technical data sheets of the modules, certificates of conformity to the technical standards IEC 61215 and 61730 and factory inspection certificates obtained from TUV Intercert ... on the basis of untruthful documentation, inducing the paying body GSE spa to pay the amounts referred to in the incentive tariff for the 26 systems and, for 18 of them, also the increased contribution", thus procuring unjust profit with related patrimonial damage of significant gravity for the public coffers, through the crediting of a total of €21,776,772.19. The lower court failed to consider that the Council of State's rulings have no decisive value in assessing the evidentiary body since, despite the possibility of separating the European bonus from the basic tariff for administrative purposes, the unaltered provenance of the installed modules through the use of false documentation maintains the causal capacity to mislead the provider and characterizes the entire profit earned as unjust. The principles established in administrative justice, essentially, do not automatically translate into liberating terms in criminal proceedings due to the different jurisdictional areas and the independent criteria for ascertaining the facts. In this case, the exclusion of the crime in relation to the plants for which the bonus request was not made cannot be adequately assessed with the

procedural evidence highlighted in the first instance to support the existence of the multiple instrumental forgeries listed in the case. In particular [...] All considerations pursuant to art. 238-bis of the Italian Code of Criminal Procedure regarding the irrevocable sentence issued against the competitor Bertoldo Marco, judged separately under an abbreviated procedure, are neglected, and the statements made by Bertoldo himself during the examination pursuant to art. 210 of the Italian Code of Criminal Procedure are also overlooked. (page 188 et seq. Court judgment) in the part where he reconstructs the operations intended to make the imported modules compatible with the Helios Factory Inspection data, an operation that also involved personnel from the TUV Intercet certification body, which Bertoldo had informed of the fraudulent intentions that were intended to be pursued with the revision of the certifications: "With... my direct interface at Tuv Intercert I had a very cordial relationship, in short, and it happened that following my... umpteenth request to modify the certificates, I shared with him the reason... and that was because there were photovoltaic modules with a serial number that was not exactly compliant with what it was, which were produced by Helios Technology and it was necessary in some way, despite myself I told him, it was necessary in some way that these modules also be covered by certification". Nor did it take into account that, as noted by the first judge (p. 195), Coppola himself acknowledged that the modules installed on the plants, sourced from Eoplly, were not those envisaged in the branding agreement and had different dimensions: "For Eoplly, producing panels to our specifications was still an effort, because our specifications were different from standard production. So, as long as we requested them well in advance, they produced the panels to our specifications, then at a certain point... when we subsequently needed panels, the panels were the ones available. That is, they were their panels, with their specifications." On this point, the territorial court limited itself to recalling [...] The statements of consultant Roncarolo, without any critical comparison with the multiple additional sources examined by the first judge and attesting different findings regarding the compliance of the installed panels with the regulations. Therefore, the widespread counterfeiting of license plates and the involvement of certification body representatives in the false certifications of conformity are completely underestimated. Nor can it be overlooked that the Court also recalled the said consultant to establish how in all the plants the manipulation of the adhesive labels placed on the back of the modules had occurred, therefore both those acquired by Helios through Eoplly through the fictitious interposition of Revolution Six (installed on 8 fields indicated in section D), and those coming from Eoplly and originally seized at the Taranto Customs, sold by Energetic Source to Kerself and installed on 18 of the plants indicated in section D. Roncarolo, consultant of Energetic Source, in his report [...] has, in fact, pointed out that on some of the HEPxxxP type panels, there were residues of glue, just as if a label had been removed (reliably the one with the wording "Made in China imported by Energetic Source SpA Milano Italy" affixed by Energetic Source during the regularization at the Taranto Customs Office), while on others, although this label remained, there was a second one bearing the guarantee of Made in Europe origin with The logo of the TUV Intercert certification company and the serial number associated with the production site 00009509 Site A (i.e., the Italian one). Completely irrelevant, in fact, is the circumstance that there was no obligation, pursuant to the provisions issued by the G.S.E., to indicate the serial number of the module on the labels but only that of the production site, since even this last incorrect indication is in itself sufficient to account for the concealment and is of decisive importance since it is linked to a

certification of conformity for the modules that is also incorrect due to the artificial modifications to the alphanumeric strings devised by Bertoldo with TUV Intercert personnel.[...] Regarding the acquittal of the defendants under count D), based on the plea of not having committed the crime in relation to the areas eligible for the European bonus increase, the Court disagreed with the fragmented assessment of the statements made by Gianpiero Coppola, examined pursuant to Article 197-bis of the Italian Code of Criminal Procedure, having settled his procedural position through plea bargaining. Specifically, the appellate judges found the aforementioned statements to be entirely reliable, not only with regard to the methods of the fraud but also to the assumption that Akhmerov, Giorgi, and Maggi were not involved in its execution, deeming the evidence relied upon by the trial judge to be "vague and abstract." The lower court's assessment presents widespread gaps in its reasoning, resulting from the rejection of logical proof in the methodological approach to the trial materials and the resulting dissolution of the overall demonstrative capacity of the sources, examined in a fragmented and decontextualized manner. Given the criminal facts that are part of a complex corporate network, characterized by the concentration and overlapping of senior roles held by the defendants Akhmerov and Giorgi, which the first judge explored on pages 89 et seq., correctly considering the reconstruction of corporate interests an essential condition for assessing subjective liability, the contested ruling completely failed to address the issue of group logic that, according to the prosecution's approach, governed the policies and operational choices, including unlawful ones, of the companies involved. Once the specific events indicted are separated from a detailed analysis of the underlying context, marked by a serious business crisis and the resulting need for economic and financial recovery measures, the analysis of the contested ruling moves within coordinates that measure the subjective liability profiles according to merely formal standards, with results that often lack consistency and persuasiveness. [...] Regarding Coppola's alleged complete credibility, the appellate judges focused their attention on elements that, in the first judge's argument, had only a strengthening effect, such as the failure of company management to take disciplinary action against the declarant once it was established, in conjunction with the searches conducted at the offices of Aion, Ecoware, and Helios on December 19, 2012, that investigations were underway on the plants of the fourth account, or that the declarant had been employed by Kerself-Aion in the spring of that year. The first judge, on the other hand, conducted a detailed examination on pages 204-214 of the circumstances deemed indicative of the defendants' personal and direct awareness of the fraudulent scheme implemented, in the interest of the entire group, by Coppola, evoking specific circumstances that, far from being mere conjecture, merited a complete and exhaustive critical refutation. Indeed, in the Court's justification, the only partial credibility attributed to Coppola derives from the identification of a series of incriminating elements that contradict the defendants' alleged innocence in the criminal plan. These elements have been analytically explained and their relevance has been extensively argued. Starting with some excerpts from Coppola's interrogation by the prosecutor, dated July 23, 2014, which shows that his appointment as director of Helios was accompanied by a mandate to take action "to keep the company afloat," given the difficult state of the parent company and its subsidiaries; and by a reference to the payment delegation mechanism, whereby the invoices issued by Eoplly to Helios were paid by Kerself (a transaction that, due to the size of the disbursements, amounting to approximately €2.4 million, had been endorsed at the top level) while, at the same time, the

same supplies were resold, at a substantial markup, by Helios to Kerself for €3.7 million. This triangulation, which Coppola himself justified by stating that "it was part of the group's internal distribution logic" because "the final need, our ultimate need, was to move on, to get back on track, to reschedule the debt. All this would end—let's say in the big mess—and we could start again.". [...] Nor does the information regarding the installation of modules sold between Eoplly and Energetic Source in 18 of the 26 plants cited under D) lend itself to the devaluation brought about by the contested ruling, since Coppola and Helios remained uninvolved in the matter of the purchase, customs clearance, and transportation to the plants of said elements. Therefore, the thesis regarding the exclusive responsibility for the fraud by Coppola and his closest collaborators is exposed to decisive reconstructive friction. In this regard, as reported by Akhmerov, since the Chinese manufacturing company had no intention of dealing with Kerself, Energetic Source, represented by its CEO Giorgi, took over the purchase. Kerself, in the person of its CEO Giorgi, maintained that the materials would be allocated to the plants under construction. Kerself subsequently repurchased them in full at a price of €6.2 million, as emerges from the expert opinion of Dr. Roncarolo. While some have raised doubts about the legality of this operation, its implications for the overall factual reconstruction of the case at trial and the logical implications regarding the defendants' awareness of the destination and use of the over 20,000 panels imported and cleared through customs, each bearing a label indicating the country of manufacture, cannot be ignored. This date marks the watershed between the relabeling of the modules, bearing labels indicating their Chinese origin, and the subsequent events of more direct procedural interest relating to the concealment of the non-EU origin of the sails installed on the plants. And on the basis of this data, the reliability of Giorgi and Maggi's protestations of innocence must be assessed, as well as the evidentiary value of the email sent by the latter on September 12, in which he announced that he had engaged 40 SAEM employees in replacing the plates, peacefully supplied by Bertoldo and Pilotto di Helios, at Coppola's direction, containing false data regarding the European production of the panels. [...] Even with regard to the modules purchased by Helios through the fictitious intermediation of Revolution Six, the contested ruling overlooked, for the purposes of assessing subjective liability, elements of certain evidentiary relevance such as the anomaly constituted by the small amounts requested by Revolution Six for the alleged assembly of components of Chinese origin and the exorbitant value of the purchases invoiced by Eopply, which prompted a request for explanations addressed to Coppola by the Administrative Director of Kerself, Dr. Crotti, who was brusquely rebuked because, as the declarant explained, "what Crotti didn't understand was that when Helios went bankrupt, Aion also went bankrupt." Crotti, as recalled by the Court on page 209, in an email dated May 7, 2011, to Paolo Fietta, Kerself's administrative, finance, and control director, and to Coppola, wrote that it was "unacceptable to purchase panels at €0.93 per watt (plus shipping costs) and resell them at €0.83 per watt..... Please correct your purchase order and agree with Mr. Coppola on a fair price for Kerself." The deafening silence surrounding Crotti's complaints, which was even more incomprehensible in the context of the group's clear financial difficulty, and Coppola's own arrogance in urging him "to mind his own business" are difficult to reconcile with the assumption that company management was completely unaware of what Coppola was orchestrating to create the best conditions for access to the incentives of the fourth energy bill. [...] With regard to the position of Marco Giorgi and Sebastiano Maggi, it must further be

noted that the Court has incurred multiple inconsistencies in its reconstruction and substantial misrepresentations of the procedural evidence. In relation to the email dated 12 September 2011, in which Sebastiano Maggi informed Coppola and, for information purposes, Giorgi and Cavacece, that "we have mobilised 40 workers to replace the labels", it maintains that "even if Marco Giorgi had read the email, its content does not in any way reveal the fraudulent structure of the label replacement procedure", and that the subject of the email in question is generic and refers to "labels and PV panels", whereas, in the other communications, the subject is almost always identified with express reference to HEP modules. These arguments lack logical weight since they fail to consider that the communication occurs following the importation from China of the significant quantity of panels purchased by Energetic Source under a contract signed by Marco Giorgi himself, resold to Kerself and destined for the camps under construction in Southern Italy; the timing of the email left no room for confusion with the relabeling operation for customs clearance purposes, as it occurred before the release of the goods, for which it was a precise condition; nor could the operation be considered routine following the regulatory indications of the GSE, since in such a case neither the enormous deployment of human capital nor the need to inform not only Coppola but also Cavacece and Giorgi could be justified. It should be added that the fact that Giorgi was not the recipient of Giuseppina Pilotto and Marco Bertoldo's emails regarding the procurement of the Made in Europe labels cannot be considered significant, given that these individuals clearly did not have a role in Helios' corporate structure that would justify their communication with the defendant, which, as Bertoldo himself recalled, was handled exclusively by Coppola. Furthermore, it is an assumption contradicted by the evidence emerging from the trial that the Made in Europe labels were not even ready on September 12, 2011. Indeed, as also noted in the contested ruling, on 28 July 2011 Pilotto forwarded to Paolo Russo, and for information to Gianpiero Coppola and Marco Bertoldo, an email containing, as an attachment, the "frame" of the labels to be affixed to the EOPPLY modules, bearing the words "Made in Europe". On 24 August 2011, at 5.05 pm, Pilotto itself informed the CEO of Helios, Gianpiero Coppola, that it had 5000 labels with the TUV logo and "made in Europe" available and that it was awaiting Paolo Russo's instructions regarding their destination (Court ruling, page 118). Pilotto also informed Coppola of the cost, asking for confirmation regarding the instruction to "invoice this amount to Kerself. Furthermore, I am awaiting confirmation to proceed with printing the remainder for the total ... of Eopply modules." In response, on August 26, Russo sent the defendant "the details of the plants, with the number of labels required alongside. All the labels could be sent to SAEM and divided into as many envelopes as there are fields involved." This was followed, on August 29, by an email in which the defendant Pilotto sent a request for a quote to Arte Grafica Munari for approximately 16,000 labels with the words "Made in Europe," delivered to Helios on September 2, 2011, and subsequently, as usual, sent to SAEM (p. 210, Court ruling). The impressive number of "made in Europe" labels (at least 21,000) available at the beginning of September, on the one hand, radically contradicts the theory of alleged posthumous replacements of panels or plates due to damage, malfunctions, or theft, and fails to take into account that, clearly, the owner companies were required to notify the GSE of the replacements of the modules, sending the relevant documentation, including the list of serial numbers of the removed panels and the new ones to be installed—obligations in this case not documented. Furthermore, the timeline deducible from the documents and extensively

highlighted by the first judge demonstrates the illogicality of the reasoning deployed to support the defendant Maggi's innocence in the offence and the acquiescence given to the thesis supported by Coppola that SAEM, the contractor for the construction of almost all of the disputed camps, had no clear contact in the operation to conceal the Chinese origin of the modules used, which required an expenditure of time and human capital that could not be ignored by the company's managers. Nor, given the proven lack of any other senior figures other than Sebastiano Maggi actually operating on the construction sites contracted to SAEM, does it seem satisfactory to assume his non-involvement in the unlawful acts under trial solely on the basis of the contractually recognized skills. This undermines the fact that SAEM is a strictly family-run company, with the defendant responsible for the management and technical direction of the plants, while his brother Francesco, who at the time sat on Aion's board of directors, was assigned the managerial and financial management of the company. The definition of the defendant Maggi as the "owner" of SAEM, although not consistent with the shareholding structure, captures operational and decision-making evidence if Camilla De Nisi, an electronics engineer who provided ongoing consultancy to Avelar, collaborating in particular with SAEM, and, as the first judge recalled, was the recipient of several emails regarding the replacement of labels, stated in the trial that she did not have free access to the SAEM construction sites, also for security reasons. She clarified, however, that at SAEM she dealt specifically with the "technical part" of the company. When asked specifically who coordinated the group of technicians, she clarified that the technical manager was "the owner, Maggi, engineer Maggi is the technical head of SAEM." [...]. The same applies to the failure to acknowledge the signature on the technical specifications of the systems, since the Court did not address the detailed considerations made in this regard by the first judge, privileging a formal element that does not appear consistent with the procedural findings acquired regarding the company structure and the professional skills of the defendant."

1.4. The extensive reference to the revoking judgment is appropriate in relation to the obligation that, following the criticized broad flaw in the reasoning, falls on the referring judge who - while remaining free to determine his own assessment of the merits through an independent evaluation of the evidentiary data and the factual situation concerning the points subject to annulment - is required to justify his conviction according to the scheme explicitly or implicitly set out in the annulment judgment, with the obligation to provide the decision with an appropriate motivation and the prohibition to base it on the same arguments that have been declared illogical (Section 1, no. 43685 of 13/11/2007, Pitullo, Rv. 238694) and having to consider that the review of the legitimacy of the reasoning in relation to the circumstantial evidence is admissible only if it refers to the evaluation that the judge of merits has made of the evidence as a whole and in their logical coordination, and not to the value of each single piece of evidence considered in isolation (Conf. mass. No. 164058) (Section 3, No. 48 of 09/30/1985, filed 1986, Martoriello, Rv: 171507 - 01).

With respect to the overall assessment of the evidence, it is important to recall the consolidated position according to which the wording of Article 606, letter e), according to which a lack of reasoning can constitute grounds for appeal based on the lack or manifest illogicality of the contested provision, clearly demonstrates the legislative intent to relegate the cassation proceedings to the exclusive functions of legitimacy. It follows that, under the formal guise of logical review of the reasoning, no criticism can be raised regarding the

findings and assessments of fact that the trial judge reached through the evaluation of the acquired evidence, since verifying the so-called "misrepresentation of the fact" would entail a "review" by the aforementioned Court, which is not permitted in cassation (Section 3, no. 8580 of 11/06/1993, P.m. in proc. Cesco, Rv. 195167 - 01); furthermore, by virtue of the provision of art. 606, first paragraph, letter e) of the Italian Code of Criminal Procedure, amended by art. 8 I, no. 46 of 2006, the review by the Supreme Court judge extends to the failure to consider or misrepresentation of evidence, provided it is decisive, with the clarification that what can be deduced in the Supreme Court and therefore falls within said review is only the revocation error (on the meaning), since the relationship of contradiction external to the text of the contested sentence, introduced by the aforementioned amendment, can only be understood in the strict sense, as a relationship of negation (on the premises), while any refutation of the meaning of the evidence, or of mere demonstrative opposition, is foreign to it, considering that no element of evidence, however significant, can be interpreted in "excerpts" or outside the context in which it is inserted. It follows that the aspects of the judgment that consist in the evaluation and appreciation of the significance of the acquired elements pertain entirely to the merits and are not relevant in the judgment of legitimacy unless the justifying argument on their demonstrable capacity is found to be flawed and that, therefore, objections that are essentially aimed only at soliciting a reevaluation of the evidentiary result remain inadmissible in the legitimacy stage (Section 5, no. 8094 of 11/01/2007, Ienco, Rv. 236540 - 01).

1.4. The objections articulated through the first six grounds of appeal concern the evidentiary value, in relation to the appellant's responsibility, attributed to:

- the role of Energetic Source and the causal contribution related to it;
- the payments made by Kerself/Aion to the Chinese supplier Eopply and the Polish company Revolution Six;
- the email of September 12, 2011, regarding "replacement of PV panel labels";
- the appellant's conduct after the seizure of December 19, 2012;
- Coppola's statements, and specifically, those in release of the appellant;
- the purchase price of the Helios production by Aion.

This Court considers that the reasons set out in the contested judgment escape the appellant's objections, which are essentially reiterations of those already criticized in the rescinding judgment, advancing inadmissible evidentiary reassessments and in violation of the aforementioned obligation incumbent on the referring judge.

1.4.1. The ruling addresses the first issue on pages 107 et seq., examining Akhmerov's appeal and, on page 110, notes its overlap with the same question raised by Giorgi.

The challenge is, on the one hand, unfounded and, on the other, generically raised.

This Court holds that the ruling, without incurring any logical or legal flaws, correctly addresses the similar challenge raised on appeal, in accordance with the dictum rescidente that criticized the failure to consider the issue of group logic that, according to the prosecution, had governed the legal and illegal activities of the companies involved, resulting in a concentration and overlapping of senior roles held by the defendants Akhmerov and Giorgi. In this regard, it shares the logical argument used by the first ruling - on the emergency for which 18 of the 26 plants indicated in section D) appear to be recipients of HEPxxxP modules subject to sale between Eopply and Energetic Source, while the other eight come from Revolution Six - according to which "if the fraud mechanism through Helios

and Revolution Six has revealed itself to be only one of the ways of implementing the criminal plan, it is evident that this must necessarily have been conceived and implemented by individuals placed at a higher level, compared to Coppola, of the corporate hierarchy, capable of involving and coordinating multiple companies of the group: Helios and Energetic Source as buyers and importers of the Chinese modules, Aion as recipient of the panels and contractor for the construction of the plants, the special purpose vehicles as clients and responsible for the request for the incentive tariff and SAEM as sub-contractor of the plants and executor of the same, which was responsible for the material replacement of the plates". The contested ruling stigmatizes the vagueness of the appeal in this regard on the part of Giorgi's defense (see page 110 of the sentence), the appeal does not raise any objections.

1.4.2. The ruling addresses the second incriminating issue on page 108 in relation to Akhmerov's appeal, noting its overlap with Giorgi's appeal (page 110). On this point, note 20 refers to the first ruling - pages 208/209 - regarding the incongruity of the prices paid by Aion on behalf of Helios: those paid to the Chinese company Eopply were excessive compared to a mere supply of materials, and those paid to the Polish company Revolution Six for a panel assembly activity, which was in reality simulated, were excessively low.

For this reason too, the ruling criticizes the vagueness of the appeal in the face of further logical evidence involving those at the helm of Aion (Akhmerov, president, and Giorgi, CEO), a company that at the time was bound by a Group restructuring plan and, therefore, had to pay particular attention to disbursements. Furthermore, Mirco Crotti, who handled payments at Aion, could not have failed to express his doubts to his direct superiors (see Crotti's email of May 7, 2011, to Fietta, Kerself, and Coppola), receiving from Coppola the invitation to "mind his own business" because he knew he would be supported if Crotti turned to his superiors.

This Court believes that, once again, a generic fragmentation of the defense's arguments is being proposed with respect to a context in which the payments were the result of agreements, within the corporate dynamics of the group that Coppola had reported, introducing inaccessible questions of fact aimed at neutralizing the evidentiary value of the emergencies considered, impeccably affirmed by the contested sentence in the established subjective synergistic illicit context in which the appellant operated.

1.4.3. Regarding the incriminating assessment of the email of September 12, 2011—sent to Maggi and Coppola and, for information to the appellant—on the employment of 40 workers to replace the labels certifying Chinese origin with those certifying European origin, its criticism, based on the defendant's denial during the trial that he had read the email (see p. 52), is clearly generic. In fact, given the detailed reasoning expressed in the first judgment regarding its relevance to the appellant's involvement (see p. 209 et seq.), the more general consideration expressed in the contested judgment regarding the adequate response given by the first judgment applies here—once again, in the light of the perspective designated by the revoking judgment and the stigmatized multiple inconsistencies in its construction and substantial misrepresentations that the annulled judgment had incurred in this regard.

1.4.4. Regarding the appellant's conduct after the seizure of December 19, 2012, the issue is examined on page 106 in relation to Akhmerov's position, noting that the defense had limited itself to refuting the idea that his hiring by the parent company had been an advantage; furthermore, it is examined on page 114 in relation to Giorgi's position, declaring inadmissible the criticisms made to the Court—when examining the reliability of Coppola's

statements (see pages 198 et seq.)—about its inaction against Coppola, who, in fact, had been hired by Aion, given that Aion's admission to the blank composition with creditors procedure did not prevent "the innocent directors from reporting those situations to those who were supposed to carry out the composition with creditors."

Also for this aspect, with respect to the overall assessment, free from logical and legal flaws, the challenge is generically raised on factual grounds with respect to the circumstantial evidence of Coppola's hiring—after the 2012 searches of Aion, Ecoware, and Helios—by the parent company Aion, and, again, as the new CEO of Ecoware, appointed by Kerself/Aion to carry out inspections of Ecoware (see p. 112 of the contested ruling). This circumstance also not illogically leads to the groundlessness of the defense's version that Coppola, CEO of Helios, was the sole protagonist of the complex fraudulent conduct perpetrated a few months earlier.

1.4.5 Regarding the unreliability of Coppola's statements in release, the challenge is generically raised on factual grounds. In this regard, the ruling refers to the examination of the issue carried out in relation to Akhmerov's appeal, expressed on p. 104 et seq., which specifically details Giorgi's awareness of the fraudulent scheme and his participation in it. It then examines (see p. 110 et seq.) the specific defense argument regarding Coppola's subjective credibility, specifically regarding the alleged "conflict of interest" with Giorgi. It disregards it—according to a broad and uncontested argument—on the basis of the documentation produced by the defense regarding Giorgi's attempted restructuring of the group, with the considerations already mentioned in the previous point.

1.4.6. Finally, as regards the purchase by Aion of the Helios production at an "off-market" price, the criticism is generic with respect to the declared "favour" done by Giorgi to Coppola, inferred from the latter's own declarations regarding the matter which were not illogically assessed (see p. 110 of the contested sentence), in a context - expressed on the occasion of the examination of Akhmerov's position (see p. 105 et seq.) - in which the appellant appears aware of the crisis in which Helios was, of the impossibility for Avelar to inject financing, of the urgency of generating production to benefit from the incentives, so as to order Coppola to "make do", given that he was absorbing all of his production "at a price...", not illogically indicated as being outside the market, also in relation to what was ascertained by the first sentence on the basis of the invoices found (see p. 183), according to which the invoices issued by Eoplly towards Helios were paid by Kerself. (an operation which, due to the size of the outlays, amounting to approximately two million four hundred thousand euros, had been endorsed at the top level) while, at the same time, the same supplies were resold, with a significant markup, by Helios to Kerself for three million seven hundred thousand euros.

1.5. The seventh ground is raised generically for factual reasons.

In examining Giorgi's position within the various companies involved in various capacities, the ruling rules out any liability based on his position, given that he violated specific duties imposed on him by his legal status (see p. 114). It then notes that, from this perspective, the defense's argument that Giorgi's liability should be excluded is without merit because the false documentation was prepared by Helios, which had a specific duty to prevent such conduct, and "the mere fact of having told Coppola to fend for himself is an expression of acceptance of the risk (eventual intent) that he would also engage in unlawful conduct."

The criticism is general and is based on a fragmented finding regarding Giorgi's conscious and voluntary involvement, which the ruling provides impeccably, through an examination of the multiple and converging elements considered, within the scope of the obligation outlined in the rescinding ruling.

1.6. The additional ground regarding the confiscation of sums of money is not admissible as it is outside the scope of those presented in the main appeal, in accordance with the consistent guidance that new grounds for appeal must be inherent to the issues specified in the chapters and points of the decision addressed by the main appeal already presented, requiring the existence of a functional connection between the new grounds and the original ones (Section 6, no. 6075 of 13/01/2015, Comitini, Rv. 262343).

2. The appeal on behalf of Sebastiano Maggi is entirely unfounded and must be rejected.

2.1. The first and second grounds, both concerning the basis of civil liability, can be addressed together and are overall unfounded.

It is important to note the general nature of the defense argument regarding the prerequisites for establishing civil liability in criminal proceedings, given the statute of limitations for the offense. This statute of limitations, in this case, has occurred in accordance with the established position that, in an appeal proceeding, the appellate judge or the Court of Cassation declaring the extinction of the offense by amnesty or by the statute of limitations, where a judgment has been awarded to pay damages, must ascertain the existence of the act and the defendant's liability. It is not sufficient, for the purposes of upholding the judgment to pay damages, to acknowledge the lack of the prerequisites for the application of Article 129, paragraph 2, of the Italian Code of Criminal Procedure. (Section 5, no. 10952 of 09/11/2012, filed 2013, Gambardella, Rv. 255331 - 01). With its most recent authoritative decision, this Court in enlarged composition has affirmed that "in the appeal proceedings against the sentence condemning the defendant also to compensation for damages, the judge, having intervened in the meantime the extinction of the crime due to the statute of limitations, cannot limit himself to taking note of the extinction cause, adopting the consequent civil provisions based on the criteria set out in the Constitutional Court ruling no. 182 of 2021, but is in any case required, given the presence of the civil party, to evaluate, even in the face of insufficient or contradictory evidence, the existence of the conditions for acquittal on the merits" explaining in the reasoning that "the principle enshrined in Section Section U, Tettamanti, which ensures the broadest protection of the right to defense, cannot be considered in conflict with the protection of the presumption of innocence. The Constitutional Court's intervention establishes that the pronouncement of extinction of the crime pursuant to art. 578 of the Italian Code of Criminal Procedure cannot, according to a conventionally oriented reading of the provision, be accompanied by the affirmation, even incidental, of the criminal liability of the perpetrator of the damage. The argument that derives from this exegesis the rejection of the principle expressed by Section U, Tettamanti, ends up requiring the appellate judge to merely acknowledge the cause of extinction. This reasoning, however, falls into the paradox of denying, by virtue of the principle of presumed innocence, the judge's ability to evaluate the grounds for acquittal on the merits, which represents the primary objective of the right to defense.

Furthermore, the defense's argument does not specify what significant misalignment the contested judgment exhibited with respect to the *thema probandum* and what prejudice the

appellant suffered in the examination of his position, given the objections he raised on appeal (with the second ground of appeal, the content of which is reported on pages 55 et seq. of the contested judgment), aimed at denying his liability for the facts attributed to him.

2.1.1. Referring to the revoking judgment cited above in paragraph 1.2, the contested judgment, in dealing with the position of the appellant—the technical manager of SAEM Energie Alternative srl, a subcontractor that built the photovoltaic plants—on pages 115 et seq., first of all rejected the defense's approach expressed in the defense brief, which sought to revise the assessments of the previous, annulled judgment through criticisms of the Supreme Court's ruling. It also affirmed the general nature of the grounds for appeal regarding liability, referring to Coppola's statements regarding Maggi himself and the validity of the first-instance ruling. Regarding the alleged impact of the defendant's acquittal of the crime under count E), with reference to the final system specifications under count D), it notes the failure to argue that the fact did not exist and affirms the lack of merit of the question raised, which would seek to deny the existence of fraud with reference to only one of the conducts that contributed to it. The therefore concludes that "all the individual activities, as far as Maggi was concerned, consisted in drafting false documentation represented by the technical data sheets (the compilation of which was Maggi's responsibility regardless of their signature) and in collaborating in the affixing of labels concealing the Chinese origin of the panels, contributed to the commission of the fraud, in full awareness of the complicity of the accomplices and with the direct intent of obtaining the incentive tariffs", referring to pages 214 to 221 of the first ruling (concerning Maggi's position), stigmatizing the absence in the appeal of any criticism capable of undermining its impeccable solidity.

2.1.2. This Court considers that, in accordance with the obligation resulting from the revoking judgment with regard to the appellant's involvement, the objections regarding the failure to consider the issues indicated in the first ground of appeal and the impact of Maggi's acquittal - due to the failure to challenge the charge in the Supreme Court - from the crime referred to in count E) are generic. The contested ruling, in fact, was placed within the rescinding dictum, rejecting the acquittal of the appellant's non-involvement in the unlawful act, according to what appears to have been the chronological sequence of the documents, up to the massive deployment of SAEM's manpower for the pre-arranged replacement of the labels aimed at simulating the European origin of the panels—a direct and explicit evidence of which is the appellant's email of September 12, 2011, in which he communicated the deployment of 40 workers to carry out the replacement—correctly identified as the contact, with his own qualified operational and decision-making role within SAEM, the contractor, in the construction of the photovoltaic plants.

The decisive point - correctly placed within the complex criminal proceedings underlying the unlawful act under D) - designates the generic nature of the alleged acquittal in relation to the count under examination of the appellant's acquittal from the conduct attributed to him under E) relating to the falsification of the final technical data sheets of the plant, originating from SAEM, certifying the European origin of the modules.

2.1.3. As for the inefficiency of the affixing of labels, which involves an objective aspect of the complex conduct, the deduction concerns a question of fact not raised by the defendant's defense on appeal (see pages 55 et seq.), since it is not possible to appreciate the appellant's complaint regarding the failure to consider arguments presented during the hearing and in the defense brief (see page 15 of the appeal), which certainly cannot broaden

the scope of the appeal, established by the presentation of the grounds of appeal, according to the shared principle according to which in the appeal proceedings, the party's right to submit briefs cannot exceed the preclusions established by the terms for appealing and those granted for the presentation of new grounds pursuant to art. 585, paragraphs 1, 4 and 5, of the Code of Criminal Procedure. pen., therefore the defense brief cannot contain further or different complaints than those proposed with the appeal or with the additional grounds, but can only support, with a wealth of details and more precise arguments, the issues already addressed with the proposed appeal (Section 3, no. 25868 of 02/20/2024, Di Maio, Rv. 286729).

2.2. The third ground is inadmissible because - on the one hand - it concerns a question of fact not addressed by the defendant's defense on appeal (as reported on pages 55 et seq. of the judgment) and - in any case - it is formulated generically with respect to the assessments expressed regarding the same defense perspective in the contested judgment in relation to the appeal of co-defendant Akhmerov (see page 93 of the contested judgment in relation to pages 194 et seq. of the first judgment).

2.3. The fourth ground of appeal is inadmissible because it concerns a point in the decision not subject to appeal.

2.4. The fifth ground of appeal concerns a provision that cannot be appealed in the Supreme Court, in accordance with the consistent position that a ruling issued in criminal proceedings regarding the granting and quantification of provisional compensation cannot be challenged by appeal. This is because it is a discretionary decision, purely for the purpose of adjudication and not necessarily reasoned. By its very nature, it is not capable of becoming final and is destined to be overturned by the actual payment of full compensation. (Section 2, no. 44859 of 10/17/2019, Tuccio, Rv. 277773 - 02).

3. The appeal on behalf of Igor Akhmerov is completely unfounded and must be dismissed.

3.1.1. The first ground, concerning point D), is generally raised for factual reasons.

The contested ruling—with regard to the issue reiterated today in the appeal—found that the appeal filed by Akhmerov borders on inadmissibility, as it does not even remotely address the reasoning of the first judge (see pages 93 et seq.), validated by the Supreme Court ruling as cited above in paragraph 1.2., particularly with regard to the inefficiency of the decision of the Plenary Session of the Council of State of 11 September 2020 with respect to the multiple hypotheses of forgery that constitute the instrumental conduct with respect to the unlawful attainment of regulatory benefits.

The appeal's objection of generality is fully appreciated in relation to what is established by the first instance ruling which addresses the issue by recalling the final ruling against the co-defendant Bertoldo and noting that "the fraudulent conduct was in fact carried out with reference to all the plants for which the incentive tariff was requested (and not only with respect to those who requested the European bonus)"... since the alleged technical-qualitative conformity of the Chinese modules to the parameters imposed by the legislation cannot be used "in order to exclude the integration of the crimes in question, as highlighted by the aforementioned ruling against Bertoldo, given the pervasive falsity of the documentation, listed in sections D) and E), deceptively provided to the GSE and the collection of the profit directly causally deriving from the commission of the described fraudulent conduct" [...] nor can the fact that [...] some of the companies [...] have recently

been readmitted by the GSE to the incentives, on the basis of art. 57-quater of law 21.6.2017 n. 96 [...]" since "[...] the requests for readmission were [...] granted on the basis of the interested parties' non-involvement in the fraud against GSE" (see pg. 196 et seq.).

3.1.2. The fourth ground of appeal, again concerning the appellant's liability for the crime under count D), is raised generically for factual reasons.

The contested ruling examines the question of the unreliability of Coppola's exculpatory statements on pages 103 et seq., justifying the divisibility of the aforementioned witness's statements and deriving the unreliability of the statements regarding Akhmerov, first, from those regarding Giorgi—for which reference is made to the relevant ground of appeal—considering the witness's reticence and his attempt to exonerate even Maggi to be not illogically evidentiary, and finally, considering that, according to Coppola's own statements, Akhmerov—Giorgi's direct superior—was by no means a fleeting figure, holding an operational role (see page 106).

This Court holds that the fragmented assessment of the unreliability of Coppola's exculpatory statements regarding the distinct involvement of the various participants in the fraudulent conduct is beyond reproach. These statements express the defense's version that he, as the head of Helios, was the sole author and director of the complex and multifaceted illegal affair referred to in D).

The different and certain synergistic context, involving the operational intervention of senior representatives Akhmerov and Giorgi, lends logical solidity to the groundlessness of Coppola's version regarding Akhmerov's innocence. This is based on the double-judgment assessment of the merits, which analytically assessed these statements without incurring logical or legal flaws, in accordance with the consistent legal position according to which the exculpatory statements of the co-defendant can be considered as evidence of innocence against the person for whom they were made only if supported by external evidence pursuant to art. 192, third paragraph, of the Italian Code of Criminal Procedure (Section 4, No. 6829 of 15/01/2009, Tripodo, Rv. 243197), when it also considered—in support of the unreliability of the statement—the lack of corroborating evidence.

In carrying out the fragmented evaluation of Coppola's statements, the contested ruling therefore conformed to the principle of law according to which the fragmented evaluation of confessional, accusatory, and testimonial statements is legitimate when the parts of the narrative deemed truthful withstand judicial verification of corroboration, where necessary, and there is no factual and logical interference—that is, a relationship of necessary causality or essential logical antecedence—with those deemed unreliable, such as to undermine the overall credibility and plausibility of the entire story. (Sect. 5, n. 25940 of 06/30/2020, M., Rv. 280103 - 01)

3.2. The second ground, specifically concerning the subjective nature of liability under point B), the third ground, regarding the evidentiary value of the S.A.L.s, and the fourth ground, regarding the evidentiary value of Gianpiero Coppola's statements, are, on the one hand, unfounded and, on the other, generally raised for factual reasons.

3.2.1. With regard to point B), the rescinding judgment, after having raised the aforementioned fundamental objection to the acquittal, stated the following.

«With regard to the charge under B), it is not out of place to point out that the prosecution alleges failure to complete the installation of 21 photovoltaic plants, expressly

referred to in the heading, by 31 December 2010, on the basis of completion percentages obtained from the invoices and SALs issued by SAEM Energie Alternative S.r.l. in 2011. The first judge considered that the criminal liability of Igor Akhmerov and Alessandro Cavacece had been proven for the crimes attributed to them, limited to the photovoltaic plants called Lorusso (no. 236482), Selvaggi (no. 248818), Giordano Domenica (no. 241258), Marulli Quattromini (no. 231801), Antonacci (216677), Scaltrito (213260), Di Mauro (244581), and, with regard to the instrumental forgery contested under E), for the Lorusso, Marulli, Antonacci, Scaltrito and Di Mauro plants in relation to the requests for the concession of the incentive tariff, at the same time issuing a declaration of extinction due to the statute of limitations of the further charges under E) with reference to the certified final appraisals and the final technical data sheets of the plant relating to the above-mentioned photovoltaic plants.

The territorial Court overturned the sentence of conviction, reaching an acquittal that leaves itself open to criticism in terms of the completeness and logical congruence of the motivational apparatus.[...] In fact, the verification of the intrinsic reliability of the accusatory statements of Lo Surdo Vito appears to be partial and incomplete with regard to the reported pressures suffered by Cavacece to induce him to sign the certificates of completion of the works in relation to seven unfinished fields in mid-December 2010.[...] Nor does the judgment of unreliability appear to be consistent from a substantial point of view with the declaratory data since the judgments on the merits show that, during the trial examination carried out at the hearing on 21 November 2017, Lo Surdo expressed himself in terms of certainty regarding the timely completion of the works relating to the plants named Giordano Giovanna, Pisicoli Teresa, Stacca, Lagonigro and Masiello, asserting that Cavacece had applied pressure because proceeded to certify the positive completion of the works in relation to all the plants included in the second energy bill (page 153) although for 6 or 7 of them, the construction of which had only begun the previous November, the installations were incomplete. He added that those built by EST II, which were completed promptly, were excluded from these systems. The Court noted that certain confirmation of Lo Surdo's statements can be drawn from the reconstruction of the events relating to the seven fields for which convictions were issued in the first instance. On the basis of the evidence constituted by the progress reports of the works as of 30 December 2010 and 31 May 2011, the documentation on the transport of the modules as well as Paolo Russo's emails, the failure to complete the works within the legal deadlines was ascertained (page 155) and the regular execution of the systems relating to EST II was equally established. The Court also held that Lo Surdo's claims regarding the falsity of the declarations of completion of works in relation to the photovoltaic plants for which he was convicted in the first instance are documentarily denied by the declarations of commencement of works present in the documents, registered between 9 April and 25 November 2009 and not included in the hypotheses of forgery ascribed to section E), and as a result of these it must be concluded that the works on the plants in question began at a time significantly earlier than November 2010 (page 141). In this regard, it should be noted that the failure to include the documents in question among those accused of falsity, as in the indictment under point (E), is a completely neutral fact, as there is no basis to doubt the infidelity of the declarations in question, while the asserted automatic connection between the notification of commencement of activity and the actual start of work is the result of a logical distortion, as it necessarily links the execution of the

planned activities to an administrative obligation. The Court of Appeal does not address the findings of the first judge, who had expressly ruled out that the concept of "start of construction" could be understood, according to the defense's argument, as coinciding with preliminary activities such as the request for a DIA or the completion of administrative procedures, and not with the actual completion of the electrical and building works necessary for access to the second energy account tariff (p. 156).

The contested ruling, from a perspective that isolates the evidentiary data without fully grasping the interferences, also excluded that Cavacece, an employee of Avelar Management at the time of the events, had the power to influence and direct Losurdo's decisions, although the first judge had, on the contrary, highlighted how the defendant was "the interface on the client's side of the project management assignment", since the witness Giorgio Cabibbo, part of Avelar Management's "strategy and business" structure, had indicated Alessandro Cavacece as the point of reference for Avelar in verifying the progress of the work on the photovoltaic plants, specifying that the defendant, in his capacity as head of the company's technical department, followed the projects relating to the Second Energy Bill plants in all three fundamental phases concerning them: from the initial phase of selecting the potential plant, following the due diligence, to the subsequent phase of monitoring the progress of the works up to the final phase of managing the completed plant (p. 158). Nor did the District Court adequately consider Cavacece's role and related operational connotations in assessing Lo Surdo's credibility, given the multiple sources acquired during the trial that attest that Avelar Management was, in essence, a structure designed to meet the operational needs of Avelar Energy. This was confirmed by Akhmerov himself, who—despite not holding any positions in the companies, which had passed under the control of Enovos Luxemburg—observed that "the division between Avelar Energy and Avelar Management was quite artificial. Avelar Management was part of the Avelar group." The appellants' objections regarding the illogical evaluation of the documentary evidence constituted by the S.A.I. and the transport documents are clearly well-founded. Their evidentiary value, according to the rules governing the assessment of evidence, should have been tested individually and comprehensively in order to adequately verify their ability to support the accusation hypothesis formulated in section B). The Regional Court held that "the S.A.L. acquired in the files, given their nature as instrumental documents for the issuing of invoices and waiting, furthermore, the incomplete drafting and uncertain provenance, cannot constitute, contrary to what the Court maintained, incontrovertibly demonstrable evidence of the non-completion of the works by the date imposed by the Second Energy Bill for the recognition of the incentive tariff" (pages 136/137). In order to assess the independent evidentiary function of the S.A.L., the Court relied on the interpretative framework of civil case law, according to which, in procurement matters, the S.A.L. does not constitute legal evidence in favor of the contractor, even when drawn up by the client or a person appointed by the client, of the completion of the work to the extent indicated therein and for the prices paid therein. It ruled out that the results of the measurement carried out by the contractor or subcontractor of the quantity of work already completed, as shown in the S.A.L., could, by themselves, constitute proof of the actual execution of the work. The appellate judges also highlighted the presence of drafting anomalies, such as the failure to sign by the project manager or other appointed technician, and the consequent impossibility of identifying who actually compiled the S.A.L.s acquired in

the documents, which were also unilaterally drafted. In this regard, it should be noted first and foremost that the documents in question were acquired, without dispute, at the hearing of 20 June 2017, and there is no complaint regarding the existence of a practice established between the parties whereby SAEM periodically sent invoices with attached progress reports to Aion and Avelar via email from employee Rosa Falcicchio. The Court of Appeal's assumption cannot be shared when it replaces the ordinary criteria for evaluating documentary evidence with those specific to civil law in procurement matters, which are based on standards very different from those of criminal procedure. If in contractual matters the rights of the opposing parties who have full access to the evidence to support their mutual claims are at issue, in criminal proceedings the right to be heard is accompanied by the principles of non-exhaustiveness of the means of proof and the free conviction of the judge [...] The identified error of law is accompanied in this case by a widespread illogical reasoning in the evaluation of the evidence since the territorial Court has operated an unauthorized fragmentation of the same, segmenting its assessment and neglecting the reciprocal inferences, a profile that is censurable in the legitimacy stage since the evaluation of the logical evidence, deducible from a complex set of circumstantial evidence, must be comprehensive and not fragmented and its unreasonable minimization or devaluation is detectable in cassation (among many, Section 6, no. 1979 of 16/05/1997, Rv. 209110). In the case before the court, the trial judge conducted a thorough reconstruction of the contents of the work progress reports (WSPs) in relation to each of the disputed areas, assessing their evidentiary capacity to support the prosecution's case, with a positive outcome only in relation to the seven areas for which he convicted the defendants. He argued that the documents' provenance from SAEM must be considered essentially undisputed, given that the undisputed company was a subcontractor for the construction of the photovoltaic parks, as per the subcontracting agreements filed in the case file. Furthermore, it was proven that the WSPs were electronically transmitted to the recipient companies, Kerself/Aion and Avelar, at their Milan headquarters by SAEM employee Falcicchio. Therefore, it ruled out the failure to sign the documents as a decisive factor, as their actual provenance was established, having never been denied by the company's representatives. The invoices to which the bills of quantities related appear to have never been contested by Avelar, either formally or substantively, and were duly paid. Finally, the Court added that SAEM clearly had no interest in providing the clients with underestimated work progress reports and, after comparing the data from subsequent documents dated May 31, 2011, to verify the consistency of the items relating to the installation of the solar panels, concluded by recognizing "the function of the work progress report to authentically describe the sequence of works performed." This argumentative structure, closely aligned with the documentary evidence and fully explaining the logical path followed by the first judges, was overturned on appeal with legally erroneous arguments and the undermining of individual pieces of evidence with representative capacity, without the reasoning demonstrating a depth and logical rigor capable of fully and persuasively explaining the reasons underlying the conflicting decision-making outcomes reached during the appeal. Indeed, the contested ruling, in the context of the fragmentation of the evidence, maintained that no probative value can be attributed to the existence of transport documents subsequent to 31 December 2010, in the absence of timely recognition of the place of delivery, the allocation of the individual photovoltaic modules transported and

the ascertainment of the reasons for the delivery themselves, whether for the completion of the systems, the replacement of other modules already installed, mere storage or the creation of fields pertaining to subsequent Energy Accounts (p. 137), completely ignoring the considerations put forward by the Court in refutation of the aforementioned aspects on pages. 118 et seq., from which it appears that the first-instance judges had undertaken a detailed analysis of the defense's objections regarding the transport documents, asserting that "for all those shipments, arrived in Italy between November and December 2010, for which, due to the lack of the container identification code, it is not possible to match the shipment received in Taranto with Paolo Russo's destination email, there remains, in the Panel's opinion, an undeniable uncertainty regarding the possibility of assigning to each separate transport document a value identifying the final location of the modules. For these modules, in fact, it cannot under any circumstances be asserted that the location indicated in the transport document is also the actual location of the modules, as it could well be a temporary storage facility, pending the final destination of the shipment as defined in Avelar's email." The contested ruling also held that Paolo Russo's emails were not intended to provide instructions regarding the destination of the modules but constituted "a mere communication, for investigative and reporting purposes, to the original importer" (p. 148). This is an apodictic assumption that fails to take into account that the first judge, on p. 120 et seq., had addressed the issue and pointed out that the Guardia di Finanza, in the reconstruction included in the synoptic table defined as Annex 295 bis, had identified the existence of "first delivery" locations, distinct from the final ones, - exemplifying the process followed for the delivery of the 644 modules identified by customs declaration no. 11357/E of 17 December 2010, which arrived on 27 December 2010 at the port of Taranto and were delivered to the Schenker depot to be finally sent to the Scaltrito plant only with the email of 31 January 2011. In this, as in other cases, to exclude the merely investigative value of Russo's email, the correspondence between the latter and Baronia of 21 March 2011 regarding the actual arrival of the panels at the site already identified with the email of the previous 31 January is valid».

3.2.2. The contested judgment, after having examined the existence of the fact under B) on pages 79 et seq., addresses the appellant's liability on pages 96 et seq. In this last regard, it recalls the analysis of the introductory premises of the first instance judgment regarding the reconstruction of the corporate structure from which the Court had drawn the affirmation of Akhmerov's liability in relation to the existing "group perspective" (see pages 79 et seq.). It states that the issues raised by the defense are extremely generic—compared to a first-instance ruling, rightly described as "rarely complete" (see p. 97)—and reports the relevant part of the ruling, according to which the appellant's liability does not arise from his top-level role but from his actual functions within Avelar, Aveleos, and Energetic Source. This undermines the defense's claim that "the false declarations made in the respective documents by Losurdo and Maggi were made on the basis of a concerted action between the latter, of which Avelar's top management was kept unaware, with the aim of protecting SAEM from contractual risks related to delays in delivering the works" (see p. 98 et seq. of the contested ruling).

3.2.3. The third ground, logically prejudicial as it concerns objective conduct, is raised generically for factual reasons.

The contested ruling - criticizing the impending inadmissibility of the appeal on this point,

an uncontested point in the appeal - took into account, without incurring logical or legal flaws - within the specific *dictum rescindente* - the probative value of the SAL (see pages 82 et seq.) as well as the certain reliability of the statements of Vito Losurdo, already the recipient of a plea bargain with a final sentence, director of the works on the plants managed by SAEM (see pages 85 et seq.), moreover confirmed by the statements of Cabibbo and Maggi as well as by documents (see page 91): the aforementioned is, therefore, completely correctly identified, in the context of the million-dollar deal, as a person suitable - due to manifest incompetence in the matter - to play a completely insignificant role and leave room for SAEM in the construction of the plants, signing documents attesting to untrue circumstances, conduct for which he is a self-confessed offender.

3.2.4. The second ground, concerning the subjective aspect, does not challenge the established "group perspective" underlying the case in question; it reiterates the defense's assumption regarding the appellant's lack of awareness and intent regarding the disputed facts, based on the generic assumption that the appellant was held liable only for the position he held within Avelar Energy and the special purpose vehicles, based on the two emails indicated in the appeal, the content of which it claims was misrepresented.

The complaint, once again, does not address the stigma of generic nature attributed to the corresponding ground of appeal which led the Court of Appeal to report the eloquent, clear and complete examination conducted by the Tribunal in this regard (see pages 97 et seq.) aimed at outlining, on the basis of the concrete emergencies considered, the managerial role played by the appellant (and by Giorgi) in the criminal activity which unfolded according to the modalities already mentioned above in which the companies involved appear to be managed by Akhmerov and Giorgi (whom the latter defines as his "boss") to whom, quite logically, the falsifications which are the object of the criminal conduct are traced back, on the basis of a leading role actually played "aimed at ensuring control and coordination over all the necessary phases of the process of setting up the plants and guaranteeing a unified line of action".

4. The appeal of the civilly liable company Aveleos S.A. is entirely unfounded and must be rejected.

4.1. The first ground of appeal, regarding the appellant's lack of passive legitimacy, is unfounded and is presented in a generic manner.

According to the first decision, Aveleos, of which Akhmerov and Giorgi served as managing directors on the Board of Directors, was the sole shareholder of many of the special purpose vehicles listed in the indictment. This was due to the undisputed criterion of legitimacy indicated (Cass. civ., sez. I, 24/11/2005, no. 24834) and the existence of a "quid pluris," according to the multiple concrete elements indicated (see pg. 281 of the ruling), which, by identifying the subsidiary's "abuse of its legal personality," gave rise to the participant's liability for the obligations assumed by the subsidiary, with the legal relationships pertaining to the intermediary being attributed to the parent company.

With the fifth ground of appeal (see page 59 of the contested ruling), the defense of Aveleos S.A. argued that the alleged "abuse of the legal personality" of the special purpose vehicles by Aveleos did not exist. The Court of Appeal responded that the rejection of GSE's appeal regarding the extension of liability, jointly and severally with Aveleos, also of the

special purpose vehicles for the acts committed by Akhmerov and Giorgi in relation to count D) makes Aveleos' appeal no longer assessable, as it would no longer be possible to identify a different defendant with respect to the civil action brought by GSE. However, it affirmed the absolute generality of the objection regarding the alleged abuse of legal personality, with respect to the complete reasons given in the first instance.

This Court holds that the contested ruling did not distort the appeal argument, correctly ruling out the possibility of assessing the liability defense of the SPVs, given that the extension of civil liability to them had already been ruled out in relation to the claim filed by GSE, the sole dominus in this regard. In any case, the mere reiteration, according to an inadmissible factual interpretation, of the complaint regarding the lack of sufficient evidence to identify the appellant's abuse of legal personality with respect to its subsidiaries, a finding unquestionably affirmed in the first ruling and generically challenged on appeal, is compelling.

4.2. As for the second and third grounds, concerning the defendants' alleged liability, aimed at valorizing Coppola's exculpatory statements among the other elements indicated in the appeal, they are essentially proposed according to an inaccessible reassessment of the facts of the evidence considered to be against the defendants and, in any case, unfounded as already stated in relation to the overlapping appeals filed - in relation to point D) - by the appellants Giorgi and Akhmerov, taking into account the referral made by the ruling to the reasons for the rejection - on similar issues - of the respective appeals, their alleged overlapping nature not being contested.

5. The appeal of the civilly liable party Avelar Management Ltd. is only partially founded.

5.1. The first ground of appeal is well founded.

The first ruling ordered the appellant, jointly with Akhmerov and Cavacece, as well as SAEM srl, to pay damages to GSE spa for the crimes under count B).

The contested ruling, while setting out the seventh and eighth grounds of appeal regarding the crime under count B), while noting that they concern liability for acts committed by Cavacece, which fall outside the jurisdiction of the Court before which the case was brought (see page 65 of the contested ruling), nevertheless upheld, with respect to count B), the civil provisions of the first instance ruling against the defendants and the appellant Avelar Management in favor of all the civil parties.

The decision must be challenged due to the lack of reasoning and the decisive conflict with Cavacece's acquittal of count B) in the previous appeal, which became final due to the lack of an appeal before the Prosecutor General.

It follows that, in accepting the plea, the contested sentence is annulled without referral, limited to the conviction of the appellant as a civilly liable party in relation to count B).

5.2. The second and third grounds, regarding the defendants' liability for the crime under count D), which seek to challenge the lack of credibility of Coppola's exculpatory statements and the failure to address the issue of omission, are overall unfounded. Referring to the arguments already presented in relation to the relevant, overlapping appeals filed by defendants Akhmerov and Giorgi, the appeal ruling examines the ninth ground, with regard to the limited testing of a sample of panels and their failure to be considered technically suitable. It argues, in its uncontested judgment, that the complaints are generic compared to

the findings of the Court, whose eloquent, clear, and complete arguments are reported below, while declaring the others irrelevant or have already been examined.

Thus, given the undisputed legitimate referral to the examination of the similar questions raised by defendants Akhmerov and Giorgi, it is necessary to reiterate here what has already been said—in relation to the aforementioned appeals—regarding the unobjectionable, fragmented assessment of Coppola's statements and, therefore, the unreliability of his statements in discharge of the two principal defendants.

As for the third ground of appeal, the related challenge is characterized by its original inadmissibility, based on a generic interpretation of the reasons for the assertion of liability.

5.3. The fourth ground is inadmissible.

Regarding the pecuniary damage and unfair profit under D), the issue has not been referred to the appeal (see p. 65), as the development of the relevant considerations during the referral proceedings cannot be assessed for the purposes of admissibility—based on the connotations of the devolution principle already mentioned.

Regarding the technical suitability of the systems, the objection is generic with respect to the criticized generality of the appeal in this regard and the acceptance of the first decision (see p. 124 et seq.), which explains the reasons for the groundlessness of the defense's assumption regarding the technical-qualitative compliance of the Chinese modules with the parameters imposed by the legislation.

Regarding the use of elements from the Bertoldo decision, the objection is generic, as the issue has not been referred to the appeal, with respect, moreover, to the use of the final judgment pursuant to art. 238-bis of the Italian Code of Procedural Procedure. pen.

Finally, the complaint of failure to state reasons regarding the incompleteness of the findings is unfounded, as the appeal is deemed inadmissible due to the failure to rebut the aforementioned reasons in the first ruling.

5.4. As for the defense's argument, it is well founded because—as is clear from the first ruling—the appellant, along with defendants Akhmerov and Giorgi and Aveleos S.A., was not ordered to pay damages to EAM Solar Italy Holding srl and EAM Solar ASA (see p. 295 of the first ruling), so the civil orders against Avelar Management could not be revoked (see p. 158).

Therefore, pursuant to art. 130 of the Italian Code of Criminal Procedure, an order must be issued. - the correction of the material error contained in the operative part of the sentence, in relation to the pronouncement of acquittal of Igor Akhmerov and Marco Giorgi from the crime referred to in point F), by deleting the expression "Avelar Management".

6. The appeal of the civilly liable party SAEM Energie Alternative srl is entirely unfounded and must be rejected.

6.1. The ruling held that the grounds raised in the appeal were adequately assessed in accordance with those already assessed in relation to the appeals filed by the defendants for the crimes under counts B) and D), and this finding of overlap is not challenged by the current appellant.

6.2. The first ground—regarding the connection with Maggi's liability under count D)—is generically raised in accordance with what has already been explained in relation to the first ground of appeal in Maggi's interest. This finding is not affected by the alleged lack of

relevance to the decision rendered by the Plenary Session of the Council of State on 11 September 2020, in relation to which the revoking ruling had expressed its dictum on the incorrect relevance given to it by the previous acquittal.

6.3. The second ground - concerning the connection with Akhmerov's liability in relation to count D) and raised on the basis of the sole legal representation of the aforementioned in SAEM - is unfounded, as the Court of Appeal has no obligation to specifically consider the aforementioned complaint, both in relation to what has already been said regarding Akhmerov's involvement through the concentration in his hands of top and exponential positions in the companies involved in the fraudulent conduct, and with reference to the generality of the deduction compared to the specific reasoning offered on the same issue, raised by the defense in the first instance, in the first judgment on page 284.

Indeed, it is a *jus receptum* that, in an appeal to the Supreme Court, the failure to examine a ground of appeal that, due to its absolute vagueness and generality, should have been declared inadmissible does not constitute grounds for annulment of the contested judgment (Section 4, no. 1982 of 15/12/1998, filed 1999; Iannotta, Rv. 213230 - 01).

6.4. The third ground is inadmissible because it concerns the provisional award, which, as already mentioned, cannot be appealed in the Supreme Court.

7. The appeals of the civil parties EAM Solar Asa and Eam Solar Italy Holding s.r.l. are unfounded and must be rejected.

7.1. The case concerns the crime under section F), charged to Marco Giorgi and Igor Akhmerov in relation to the crime p. and p. under articles 110 of the Criminal Code, 640 of the Criminal Code and 61 no. 7 of the Criminal Code because, in complicity with each other, Giorgi in his capacity as Managing Director and representing Aveleos S.A. with headquarters in Luxembourg 5 Rue Guillaume Kroll, controlled by Avelar Energy Ltd and Enovos Luxembourg SA, Akhmerov as managing director of the same Aveleos, on the occasion of the sale for the price of 36,864,618 euros of the shares of Ens Solar One s.r.l., Energetic Source Solar Production s.r.l., Energetic Source Green Investements s.r.l., Aveleos Green Investment s.r.l., Energetic Source Green Power s.r.l. , ENS Solar Four s.r.l., Energia Fotovoltaica 14 Soc. Agr. a r.l., Energia Fotovoltaica 25 Soc. Agr. a r.1., through artifices and deceptions consisting in concealing the lack of conditions for admission to the GSE incentive tariff regime, procured unfair profit for Aveleos SA equal to the value of the contract, inducing Eam Solar Italy Holding s.r.l. (headquartered in Rome, Via Marcello Prestinari 15) 13 and the parent financing company, listed on the Oslo Stock Exchange, Eam Solar Asa (headquartered in Dronningen 1, 0287 Oslo), to make bank transfers in three separate payments, thus causing significant financial damage to Eam Solar. Milan, 15 July 2014.

7.1.1. The revoking judgment, in this regard, stated the following.

«With regard to count F), the territorial Court highlighted that the acquittal of the defendants Akhmerov and Giorgi derives directly from the acquittal rulings issued in relation to counts B) and D), excluding, at the same time, the possibility of identifying in the conduct of Akhmerov during the negotiations with the EAM companies, "any significant omission of communication", since the minutes of operations carried out drawn up by the G.D.F. during the accesses to the photovoltaic plants, containing the criminal proceedings (44638/13 R.G.N.R.), the proceeding judicial authority as well as various information on the nature of

the investigations and the type of activity carried out, had been entered in the data room; The decree of the Reggio Emilia Court of March 6, 2013, revoking the deadline for submitting AION's composition plan, which expressly referenced the existence of a "criminal investigation underway at the Milan Public Prosecutor's Office regarding the crime referred to in Article 640, second paragraph, no. 1 of the Criminal Code." The appeal judges also noted that the so-called Massimi and Fiorini report, drafted in two versions dated June 13 and 24, 2014, had expressly identified critical issues relating to the EN.FO14 plant, which were reiterated following the submission of a Factory Inspection certificate. Therefore, according to the lower court, the defendants, within their respective jurisdictions, had fulfilled their information obligations during the negotiations. The failure to display the search warrant of December 19, 2012, was irrelevant given the amount of information available that would have allowed the buyer to consciously consent to the transaction. The court notes that the appeal judge's acquittal is based on only a partial assessment of the procedural materials and underestimates the crucial sequence of the negotiations. As reconstructed in the first instance ruling on pages 226 et seq., after the start of negotiations in June 2013, on December 31, 2013, Aveleos S.A. and EAM entered into a sales agreement ("Share Purchase Agreement"), filed by the appellants, in which the seller, among other things, guaranteed that the photovoltaic plants owned by the project companies had already been built, connected to the national electricity distribution grid and fully operational in full compliance with and in accordance with the relevant permits and that they were compliant with all applicable laws, regulatory provisions and regulations and/or provisions; that the photovoltaic plants regularly benefited from the incentive tariffs established by the Italian Ministry of Economic Development in conjunction with the Ministry of the Environment, Land and Sea, in compliance with all applicable laws and regulations; that the seller, the project companies, and their respective directors, legal representatives, or employees were not involved in criminal proceedings, and there were no grounds to believe that these individuals were or could be involved in criminal proceedings in relation to their positions in any of the aforementioned entities; that "all documents and information to be provided by the seller up to the date of the actual transfer, in relation to the photovoltaic plants, were and must continue to be true, complete, and accurate in all respects" (Article 5.1 of the aforementioned contract). The seller further assured that there were no facts or circumstances—known to the seller and not disclosed to the buyer or its advisors—that, if disclosed, would reasonably have induced a professional investor not to enter into the agreement or to enter into it under terms and conditions different from those agreed upon. These contractual clauses remained in effect between the parties until the final contract was drafted on July 15, 2014, which expressly referenced them, establishing that "this deed of assignment does not replace, cancel, supersede, or modify in any way any previous agreements, understandings, or contracts between the Parties having the same purpose The Court of Appeal conducted a sort of resistance test in order to argue that the failure to communicate the search warrant of 12/19/2012 to the opposing party did not harm the buyer, since the information contained in the aforementioned document could be deduced from other documents uploaded to the data room. Such an interpretation is inconsistent with the obligation of the seller to provide information, nor with established case law, which holds that, in the context of contractual fraud, even the maliciously maintained silence on circumstances relevant to the assessment

of mutual performance by the party with the duty to disclose them constitutes deception, capable of influencing the contractual intentions of the taxable person (among many, Section 2, no. 28791 of 18/06/2015, Rv. 264400; Section 6, no. 13411 of 05/03/2019, Rv. 275463). Essentially, the contractual clauses required the disclosure of the document in fulfillment of the obligation of good faith that permeates contractual relations. The deceptive effect of the breach is therefore rooted in the omission of a required act, which is all the more significant given the subsequent documents that presupposed it, such as the inspection reports of the Guardia di Finanza. Nor did the contested ruling adequately address, in order to assess the relevance of the contested omission, the stringent chronological sequence of communications between the parties starting in February 2014, when press reports leaked about an investigation into the photovoltaic plants belonging to Aveleos. The Court recalled that on February 4, 2014, EAM sent a letter to Igor Akhmerov and Peter Hamacher (communications contact), also addressed for information to Giorgi, Cabibbo, and Zucca, requesting clarification on the involvement of the special purpose vehicles, the selling shareholders, and the directors in any criminal proceedings. It specifically invited them to "indicate whether the seller, the target companies, and their respective directors, officers, or employees are currently involved in criminal proceedings and whether there is a legal basis for initiating criminal proceedings against any of them. Please indicate whether the seller's shareholders and their respective directors, officers, or employees are currently involved in criminal proceedings and whether there is a legal basis for initiating criminal proceedings against any of them (provided that any criminal proceedings could potentially impact the seller, the target companies, and the facilities). (Court ruling, page 230). In response to the request, in a letter dated 10 February 2014, Akhmerov informed EAM that on 18 December 2013 and 22 January 2014, Aveleos had been informed of investigations conducted by the Guardia di Finanza (at the request of the Milan Court) on the same dates on the plants owned by the company ENS Solar Five S.r.l. (ENS 5), which had previously belonged to Aveleos and was sold to the Venice European Investiment (VEI) Capital S.p.A. investment fund. in August 2012, specifying that the investigation was "focused on technical specifications (dimensions, identification, etc.) and relevant information provided to GSE and the Authorities" and that "Aveleos is not aware of the facts that gave rise to these investigations and is also not aware of the lack of compliance with the relevant regulations. Therefore, Aveleos does not expect any problems arising from these investigations." At the subsequent meeting on March 4, expressly requested by EAM, according to the statements of witness Jakobsen, "Mr. Giorgi continued to reiterate the concept that there was no risk in the face of my complaints, and the fact that I requested that there should be no risk." On March 20, 2014, EAM sent a further note in which it reiterated that it did not wish to assume criminal risks and complained about the incompleteness of the information provided by the opposing party. The EAM appellants also pointed out that the Regional Court erroneously dated the letter as March 26, arguing that Jacobsen's complaints were unfounded, as the Guardia di Finanza reports had already been uploaded to the data room, a requirement that was in fact only carried out after the communication, and in any case, unsuitable for providing a response to the prospective purchaser's requests for detailed information on the origins and reasons for the investigation [...] It is therefore in this context that the examination of the deceptive effectiveness of the failure to produce the search and seizure order of 19

December 2012 must be framed. This document, as pointed out by the public prosecutor's defense, was the only one that—through the provisional indictment—explained the nature of the fraudulent conduct and the plants involved. The provisional indictment clearly highlighted that the proceedings were being carried out in accordance with "the crime under Article 640, paragraph II, no. 1, of the Criminal Code", indicating the fraudulent conduct in replacing the "label certifying the non-EU origin on solar panels to be installed within the national territory with false EC origin labels, inducing the paying body of the Minister of Economy, GSE SpA, wholly owned by the Authority, to pay the contribution increased by 10% under Article 14, paragraph I, letter d) of the Ministerial Decree of 5.5.2011 (the so-called "Fourth Energy Bill") with consequent unfair profit and related financial damage to the public coffers". Nor can it be overlooked with regard to the subsequent evolution of the negotiations that the verification condensed in the so-called Massimi and Fiorini report was carried out in a very short time (about a month) on the basis of the documentation made available by the technical department of Avelar and the clarifications provided by Cavacece and Cabibbo, so the consultants concluded in the summary report that the inspected companies met the requirements for obtaining the 10% European bonus, also on the basis of the documentary check relating only to the cost of invoiced materials. They expressed only one residual doubt regarding "the possibility of referring the Factory Inspection certificate to the modules in the product sheet bearing the wording "Rev02010" (installed on site) (EN.FO. 14, editor's note) or to those in the product sheet bearing the wording "Rev02012" (not present on the site)." Therefore, they formulated a judgment of "formal compatibility", while not excluding the abstract possibility of further investigations by the GSE and "in the event of a proven and recognized lack ... of suitable certification" the consequent loss of the 10% bonus on the incentive and the recovery of the sums paid in the past, pursuant to of what is provided for by the Ministerial Decrees of 11/05/2011 and 31/01/2014. It is also worth asking whether the nature of the investigations entrusted to third-party consultants was suitable for certifying not the formal regularity but the lawfulness of the areas verified, given the nature of the instrumental violations being contested and the methods of their commission. The reasoning of the contested ruling therefore did not correctly and comprehensively address the broad body of evidence in the case file, enunciating arguments in support of the acquittal that are not decisive and neglecting qualifying elements for the purposes of proof regarding the high charge and the related aspects of subjective imputability. Therefore, the proposed appeal must also be found to be well-founded in relation to point F).”

7.2. The first ground is unfounded.

7.2.1. The contested ruling (see p. 130 et seq.), in examining the appeal of Akhmerov and Giorgi in relation to the crime under point F) and the related one of Aveleos S.A., excludes the need to correlate the matter under point F) to the previous affirmation of responsibility of the defendants under points B) and D) and states - after having stigmatized the vagueness of the charge with regard to fraudulent conduct - that if the only flaw in contractual correctness is constituted by the silence on the existence of the report of the search carried out at the offices of Helios Technology, Ecoware and Aion on 19 December 2012 - regarding an investigation for fraud in relation to the European origin of the panels – “it is precisely the communication of other information to the opposing party that leads to the belief that proof - beyond any reasonable doubt - of the fraudulent conduct of the defendants

has not been reached" (see p. 132).

According to the contested ruling, the first decision does not indicate the moment in which the disclosure of the search warrant and the related report could have determined a different decision by the buyer (see p. 133). In any case, it would have been necessary to prove that the disclosure would have provided useful information to EAM in assessing the suitability of purchasing the SPVs, whose GSE incentives were subsequently revoked due to the alleged false completion certificates (see p. 134). According to the ruling, the answer is negative based on an examination of subsequent events, as "the prolongation of the negotiations in the face of other, equally alarming news seems to suggest otherwise" (see p. 136). The Court draws its attention to the agreement of 31 December 2013, reached during the EAM due diligence, within which "guarantees of regularity were provided which later turned out to be non-existent, but it is worth noting that such conduct is not contested in the indictment either to the defendants or to other individuals (Giorgi and Akhmerov certainly did not sign it personally), assuming that not even the Court attributes any deceptive or deceptive value to it, focusing, on the contrary, exclusively on the failure to display the search report" (see p. 137). This perspective does not convince the Court of Appeal, also in light of the premise found on page 237 of the chapter dedicated to "assessments on count F)," from which it is clear that the defendants' liability was established according to the paradigm that sees them guilty of this crime because they were guilty of the crimes under counts B), D), and E (see ibid.).

This conclusion does not satisfy the Court, which criticizes how the first Judge failed to "examine and explain how, in the context of a multi-million euro negotiation, Giorgi and Akhmerov, alone, managed to defraud EAM, its professionals, its lawyers, and the certification and control bodies, without communicating anything to those who, together with them, had carried out that negotiation for months and months (Peter Hamcher and Martin Technau)" (see p. 138).

Thus, citing Section 2, October 3, 2023, no. 46209, it denies the existence of the *quid pluris* that must characterize the "silence" (consisting of the aforementioned failure to display it), in order for it to have a deceptive nature, since the aforementioned documents uploaded to the data room had equal, if not greater, value than the aforementioned report (see p. 140).

Furthermore, the ruling criticizes the Court's interpretation of the correspondence between EAM and Aveleos (see p. 141). In this regard, the information should have been correlated with the inspection report of March 25, 2014, duly entered into the data room, clearly revealing that it revealed nothing less than what could be read in the search report of December 19, 2012. Furthermore, the reference in the letter of March 11, 2013, to the possibility "that GSE might suspend or revoke tariffs on En.Fo. 14" is highlighted as a warning to EAM and its firm intention to continue negotiations; a similar observation is made in relation to the letters of March 20, 2014, and March 28, 2014, regarding EAM's awareness of the risks associated with criminal proceedings.

Furthermore, the ruling examines the validity of the reports by advisors Massimi and Fiorini (see pages 147 et seq.), concluding that, although unrelated to the existence of fraudulent conduct, they reinforce the Court's doubts regarding EAM's misleading nature.

Furthermore, the value of the arbitration awards, considered irrevocable, is considered, aimed at excluding the existence of the *quid pluris* with respect to mere inaction "since it is

not implausible that Giorgi and Achmerov, although responsible for the frauds to the detriment of GSE, tried to carry on the negotiations - remember not alone but alongside the top management of Avelar, in the persons of Hamacher and Technau - in the hope that EAM's interest in the acquisition would also allow it to overcome the critical issues which were certainly present and clearly detectable in practice" (see pg. 156).

Finally, the ruling examines the Court's assumption regarding the disclosure obligation arising from the content of the search warrant, noting that it was superseded by subsequent documentation and the absence of disclosure obligations prior to the search warrant in the absence of negotiations; as well as the illogicality of the reference to the issue of completion of the works and the connections between the companies (see p. 158).

Hence, the acquittal, pursuant to Article 530, paragraph 2, of the Italian Code of Criminal Procedure, because the fact does not exist.

7.2.2. This Court considers that the defense's objections are generic and factual, relying on a different assessment of the evidence, which was not fully and not illogically assessed by the contested ruling. In particular, they rely on the failure to consider the case under B) and the conduct under F), without considering the independent assessment declaredly and correctly pursued by the Court with respect to the conduct under B), D), and E), due to their structural non-overlapping with that under F), and the identification, as a cornerstone of the fraudulent conduct, by both the Tribunal and the Supreme Court, of the failure to display the search report of 12 December 2012. In this regard, it is necessary to consider the shared inferred vagueness of point F), which - according to the Court of Appeal - favored an insidious quasi-discretionary power of the judge in identifying the fraudulent conduct, ultimately identified as above, in a complex and qualified context of negotiations conducted by a plurality of expert parties.

Thus, it must be noted that, starting from the wording of section F), the incrimination of the commission-like conduct consisting, according to the defense's view, in the "communication of radically false documentation" to EAM is not at all evident and, as proof of the generality of the defense's assumption, there are the reasons for the first conviction effectively summarized in its final statement (see pg. 253) which identifies the "artifices consisting, first of all, in the display to the counterparty, during the negotiations, of knowledge material of a partial documentary nature, through the insertion in the virtual data room of investigative documents and documents which did not indicate the exact contours of the criminal investigation, furthermore, in the malicious concealment of the problems related to the searches of 19 December 2012 (from which the irregularities and falsehoods committed to obtain the tariffs of the II account and the incentives of the IV account could have been revealed), in the persistent manifestation of Formal assurances through letters signed by Akhmerov and a series of so-called "representation and warranties" clauses, contained in the agreement of December 31, 2013 and faithfully reproduced in the deed of transfer of the plants, deceptive conduct from which "EAM's decision to proceed with the definitive transfer of the companies arose."

7.3. The second ground of appeal is manifestly unfounded due to the intervening acquittal in relation to point C), to which the "Piangevino" plant refers. The manifest unfoundedness of the ground of appeal does not lead to any nullity of the judgment in relation to the failure to provide reasons in this regard, in accordance with the shared position

according to which the failure to examine a ground of appeal does not cause the nullity of the judgment if the ground is manifestly unfounded (Section 5, no. 3952 of 18/02/1992, Cremonini, Rv. 189818 - 01).

7.4. The third ground is unfounded.

According to this Court, the Appellate Judge complied with the ruling of the Court of Cassation, according to which, in proceedings for remand following annulment for defective reasoning, the lower court is neither bound nor influenced by any factual assessments formulated by the Court of Cassation in the rescinding judgment. It is the lower court alone that has the task of reconstructing the facts resulting from the procedural findings and assessing the significance and value of the relevant sources of evidence. (Section 2, no. 8733 of 22/11/2019, filed 2020, Le, Rv. 278629 - 02); Furthermore, in the event of annulment due to a lack of reasoning, the referring judge is invested with full powers of cognizance and, subject to the limits deriving from a possible internal *res judicata*, can revisit the fact with full appreciation and autonomy of judgment, so that he is not bound to examining only the points indicated in the annulment ruling, but can access a full reassessment of the evidence, as a result of which he is entitled to reach solutions different from those of the previous judge of the merits (Section 1, no. 5517 of 30/11/2023, dep. 2024, Lombardi, Rv. 285801 - 02).

The Court of Appeal, indeed, respected the constraint outlined in the rescinding judgment, which had criticized the previous appeal acquittal for flawed reasoning, specifically regarding the deceptive suitability of the failure to display the search warrant and related report. This was left to a renewed factual assessment by the referring judge, who assessed it in the context of the negotiations in which it occurred, freely reassessed it, and ruled it out in accordance with the aforementioned legal orientation regarding contractual fraud.

Therefore, the defense's argument aimed at anchoring the referring judge's decision to an irrevocable finding of the deceptive nature of the aforementioned omission is unfounded, as it is excluded by the legal principles regarding the obligations of the referring judge recalled in the rescinding judgment itself.

7.5. The fourth ground is inadmissible because it seeks a reassessment of the facts, given the appellate judge's assessment of the facts indicated, free from logical and legal flaws.

First, the complaint of misrepresentation of the facts underlying the judgment regarding the actual communication of relevant documents amounts to a substantial proposal for a reassessment of the evidence, given a logical assessment of the knowledge, made possible by the documents presented, of the existence of criminal investigations into a case of aggravated fraud.

A similar, inadmissible defensive approach, which does not involve any illogicality, let alone any manifest illogicality, is then proposed in relation to the correspondence considered by the referring judge, up to the EAM note of 20 March 2014 in which "criminal risks" are evoked, which was impeccably reinterpreted by the appeal judge (see pages 144/145 of the ruling) as evidence of EAM's awareness of such potential risks for sellers arising from the criminal investigation, which is evidently different from expressing an intention not to take them on. Thus, the assessment of the subsequent note of March 28, 2014, also fits entirely logically within the reconstruction of "a game in which each party plays on misunderstandings rather than a negotiation in which the parties clearly laid out their cards on the table," an

expressive indication of which is the "fanciful claim" to obtain a statement from the Public Prosecutor that "clearly describes the facts" (see p. 147 of the contested ruling). Finally, the criticisms of the broad assessments made in the contested ruling regarding the inconsistency with the *thema probandum* of the so-called "Massimi & Fiorini Report" (see p. 147 et seq. of the contested ruling) are equally inadmissible, based on an inaccessible hypothetical reassessment based on the testimony of witness Argentieri.

7.6. The fifth and sixth grounds are overall unfounded.

7.6.1. This Court believes that the Court of Appeal's assumption regarding the use of arbitral awards pursuant to Article 238-bis of the Italian Code of Criminal Procedure cannot be shared. The appealed judgment's reference, as a basis for such use, to the assertion that the activity of arbitrators, even in accordance with the overall provisions of Law No. 25 of 1994 and Legislative Decree No. 40 of 2006, has a jurisdictional nature and replaces the function of the ordinary judge. This does not address the basis of the evidentiary institution to which it refers and does not take into account *the jus receptum* according to which the use of irrevocable judgments, acquired for the purposes of proving the facts established therein pursuant to Article 238-bis of the Italian Code of Criminal Procedure. pen., concerns only sentences pronounced in other criminal proceedings and not also those pronounced in a civil proceeding (Section 4, no. 28529 of 26/06/2008, Mezzera, Rv. 240316); furthermore, the use of irrevocable sentences, acquired for the purposes of proving the facts established therein pursuant to art. 238-bis of the Italian Code of Criminal Procedure, concerns only those rendered in other criminal proceedings and not also those rendered in a civil proceeding, the two procedural systems adopting asymmetrical criteria in the evaluation of evidence; therefore, sentences of a judge other than the criminal one, even if final, are not binding on the latter, but, once acquired, are freely evaluated by the latter (Section 5, no. 41796 of 17/06/2016, Crisafulli, Rv. 268041); Finally, with regard to documentary evidence, irrevocable sentences issued in civil or administrative proceedings are not binding on the criminal judge, who must therefore evaluate them pursuant to Articles 187 and 192, paragraph 3, of the Italian Code of Criminal Procedure for the purposes of proving the facts established therein. It is explained that, according to the general principle established by Article 2 of the Italian Code of Criminal Procedure, the criminal judge has the power to independently resolve any issue on which the decision depends, unless otherwise established, and that the only provision that expressly attributes "*res judicata*" to non-criminal sentences in criminal proceedings is Article 3, paragraph 4, of the Italian Code of Criminal Procedure, with reference to the "irrevocable sentence of the civil judge who has decided a question on family status or citizenship" (Section 3, no. 17855 of 19/03/2019; Cavelli, Rv. 275702).

7.6.2. Therefore, the aforementioned arbitration awards (dated 2019 and 2024) could legitimately be included in the evidentiary compendium and be freely assessed, regardless of whether the decisions are final or not.

Their alleged exclusion from the evidentiary compendium is, in fact, unfounded, as the reference in the revoking judgment, which forms the basis of the fifth ground of appeal, is not valid in this regard. The revoking judgment, in criticizing the evidentiary assessments of the previous appeal judgment in relation to the production of documents—specifically, the S.A.L.—concerning point B), invokes Article 193 of the Italian Code of Criminal Procedure. (see pg. 43) to support the incorrect evaluation parameter, referred to the civil criteria, in

relation to the said documentation and, in the context of this criticism, recalls the jurisprudential principle according to which, in terms of the exercise of civil action in criminal proceedings, the provisions contained in a contract stipulated between the parties, which devolve to arbitrators or subject the ascertainment of certain facts to particular procedures, do not bind the criminal judge, who is called upon to rule on the liability of the accused and to determine the compensable damage, without any evidentiary constraint of a conventional nature being able to influence the determinations (Section 2, no. 4699 of 01/16/2019, Rv. 276452), noting that “the principle is specifically relevant for the arbitration award in relation to the dispute under F)”.

This Court, in fact, believes that this parenthetical reference to the revoking judgment does not lead to any judgment of inadmissibility of the arbitral awards nor does it at all exclude their free evaluation by the referring Judge, resulting in being entirely in accordance with the legitimacy orientation just mentioned above, taking into account the value of mere comfort (see p. 152 of the judgment) of the outcome of this evaluation with regard to the overall connotation of the negotiation as a "game of misunderstandings" (see p. 151, ibid.) with respect to an argumentative framework therefore entirely suitable to justify the conclusions reached.

8. In conclusion, the contested judgment must be annulled without referral, limited to the conviction of Avelar Management LTD as a civilly liable party in relation to count B), dismissing the remainder of Avelar Management LTD's appeal. The dismissal of the appeals of Giorgi Marco, Maggi Sebastiano, Akhmerov Igor, Eam Solar Asa, Eam Solar Italy Holding S.R.L., Società Aveleos Société Anonyme, and SAEM Energie Alternative S.r.l. results in the aforementioned parties being ordered to pay the legal costs. The defendants and the civilly liable parties must also be ordered to reimburse the representation and defense costs incurred in this proceeding by the civil party G.S.E. Gestore Servizi Energetici S.P.A., which are deemed fair to be €3,686.00 plus statutory accessories. Furthermore, Igor Akhmerov must be ordered to reimburse the representation and defense costs incurred in this proceeding by the civil party Unicredit S.P.A., which are deemed to be fair and equivalent to €3,686.00 plus statutory fees. Igor Akhmerov, SAEM Energie Alternative S.R.L., and Aveleos Société Anonyme must be ordered to pay the representation and defense costs incurred in this proceeding by UBI Leasing S.P.A., which are deemed to be fair and equivalent to €3,686.00 plus statutory fees.
9. The correction of the material error contained in the operative part of the contested sentence in relation to the acquittal of Akhmerov Igor and Giorgi Marco from the crime referred to in point F) must be ordered by eliminating the words "Avelar Management".

P.Q.M.

Annuls without referral the contested judgment limited to the conviction of Avelar Management LTD as a civil party liable for damages in relation to count B). It rejects the remainder of the appeal of Avelar Management LTD. It rejects the appeals of Giorgi Marco, Maggi Sebastiano, Akhmerov Igor, Eam Solar Asa, Eam Solar Italy Holding S.R.L., Società Aveleos Société Anonyme and SAEM Energie Alternative S.r.l., which it orders to pay the legal costs. It also orders the defendants and the civil parties liable for damages to reimburse the representation and defense costs incurred in this proceeding by the civil party G.S.E. Gestore Servizi Energetici S.P.A., which it awards in the amount of €3,686.00 plus statutory accessories. It orders Akhmerov Igor to reimburse the representation and defense costs incurred in this proceeding by the civil party Unicredit S.P.A., which it awards in the amount of €3,686.00 plus statutory accessories. Orders Igor Akhmerov, SAEM Energie Alternative S.R.L., and Aveleos Société Anonyme to reimburse UBI Leasing S.P.A. for the representation and defense costs incurred in this proceeding, which amount to €3,686.00, plus statutory fees. Orders the correction of the material error contained in the operative part of the contested judgment regarding the acquittal of Igor Akhmerov and Marco Giorgi of the crime under count F) by deleting the words "Avelar Management."

So decided on 06/17/2025.

The Drafting Counselor — The President

Angelo Capozzi — Ercole Aprile