



*Ministero dell'Ambiente  
e della Tutela del Territorio e del Mare*

DIRTEZIONE GENERALE DELLE POLITICHE  
PER L'INNOVAZIONE, IL PERSONALE E LA PARTECIPAZIONE

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**Subject:** Questions from the Committee to the communicant and the Party concerned (case ACCC/C/2015/130)

Dear Mme Marshall,

this Directorate-General wishes, first of all, to thank the Compliance Committee and the WWF Italia for the attention paid to the issue of access to environmental justice of environmental NGOs, representing, as also recalled at the hearing held on last November the 24<sup>th</sup>, one of the key areas the Ministry of the Environment was called to implement, to serve and support the Italian society, since its establishment in 1986 (namely, as per article 13 of Law 349/1986).

The questions raised in the note concern the cost of access to environmental justice in the framework of the implementation of article 9 of the Convention. The Court of First Instance held that the Court of First Instance had failed to fulfil its obligations under article 9 of the Aarhus Convention and, in particular, the existence of a stamp duty (in Italian “*Imposta di bollo*”) on documents lodged in court proceedings.

The answer is as follows. The stamp duty was absorbed in the past years within the so-called “unified contribution” (in Italian “*contributo unificato*”) instituted for the first time by Law 488/1999. The article 9, paragraphs 1 and 2, of that Law provided that:

*“1. Acts and measures relating to civil, criminal and administrative proceedings (...) shall not be subject to stamp duty, as well as registration fee, registry fees, and summons rights of the bailiff.*”

*2. In civil, administrative court proceedings (...), referred to in paragraph 1, for each level of judgment, the unified contribution of registration to the file shall be established, according to the amounts and values indicated in Table 1 annexed to this Act".*

This approach – and the existence of the unified contribution, replacing stamp duties and other previous taxes - has been confirmed by the D.P.R. (Decree of President of the Republic) no 115/2002, containing “Consolidated Act of the laws and regulations in the field of justice costs” which replaced the above provisions of Law 488/1999, subsequently being subject of some legislative amendments affecting, *inter alia*, the amounts and application of the unified contribution.

With reference to the stamp duty, article 18 of the Consolidated Act ((in Italian “*Testo Unico*”) currently in force, expressly provides for the non-application of stamp duty to the acts and provisions of the administrative process subject to the unified contribution.

Further, the article 13 of the Consolidated Act – as amended by article. 37, paragraph 6, of Decree Law 98/2011 converted by the Law 111/2011 – regulates, in paragraph 6-bis, the amounts of the unified contribution for access to justice before the Regional Administrative Courts (TAR) and the Council of State, and provides, as already correctly identified by WWF, its amount, and namely:

- EUR 650 for the first grade (TAR);
- Euro 975 for the second grade (Council of State; the amount of the tax is the same of the first grade “increased by half” as provided for by article 13, paragraph 1-bis).

Below you will find is a reproduction in English of the key provisions, above mentioned, of the Consolidated Act.

*"Art. 9 (L) (Unified contribution)*

*1. It is due to the unified contribution of registration in the civil process, for each level of judgment, including the collective and voluntary jurisdiction procedure, in the administrative process and in the tax process, in accordance with the amounts provided for in Article 13 and without prejudice to Article 10.*

*(...)"*

*"Art. 13 (L) (Amounts)*

*1. The unified contribution is due in the following amounts: (...)*

*1-bis. The contribution referred to in paragraph 1 is increased by half for appeals and is doubled for trials before the Court of Cassation. (...)*

*6-bis. The unified contribution for actions brought before the Regional Administrative Courts and the Council of State is due in the following amounts:*

*(...)*

*e) in all other cases not provided for in the previous letters and for the extraordinary appeal to the President of the Republic in the cases admitted by the current legislation, the contribution due is EUR 650."*

*"Art. 18 (L) (Non-application of stamp duty in criminal proceedings and in proceedings in which the unified contribution is due)*

*1. Stamp duty shall not apply to acts and measures of criminal proceedings. Stamp duty shall not apply equally to acts and measures of civil process, including collective and voluntary jurisdiction, administrative process and tax process subject to the unified contribution. In addition, the stamp duty shall not apply to certified copies, including enforceable copies, of documents and measures, provided that they are requested by the parties to the proceedings. Procedural acts and measures are all procedural documents, including those prior to, necessary or functional.*

*2. The discipline on stamp duty is unchanged for applications and requests in any form submitted by third parties, as well as for non-jurisdictional acts carried out by the offices,*

*including the issue of certificates, provided that they are not prior, necessary or functional to the processes of referred to in paragraph 1.”*

As pointed out by the WWF, the unified contribution applies partially, or does not apply, both as per the exemption scheme referred to in article 10 of the Consolidated Act and in the specific cases referred to in article 13, paragraph 6-bis, letters a), b), c) and d). These cases include, for example, complaints about citizenship, public employment, protection against the inertia of public administration or access to administrative documents, including access to environmental information as provided for in the second part of the letter a): *“No contribution is due for the appeals provided by article 25 of the aforementioned law n. 241 of 1990 against the refusal of access to information referred to in Legislative Decree 19 August 2005, n. 195, implementing Directive 2003/4/EC on public access to environmental information”*.

More generally, referring to what emerged during the hearing on 24 November, this Directorate General confirms the commitment of the Ministry of the Environment to identify, together with the other central administrations competent in the areas of justice and taxation (namely, the Ministry of Justice and the Ministry of Economy and Finance), long-term solutions on this subject.

The Italian Ministry of the Environment considers of fundamental importance the irreplaceable function of control over the territory Italian environmental protection associations played for decades thanks to the role that Italian law recognizes them.

Best regards,

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