

REPUBLIC OF ITALY

The Regional Administrative Court for Calabria

(Section One)

has pronounced the following

ORDER

on the claim number 311 del 2016 of the general register brought by Associazione Italiana World Wide Fund For Nature (WWF) Onlus NGO, [...]:

*against*

the Region Calabria, [...];

*with respect to*

Enel S.p.A., [...];

*for the annulment*

of decree no. 13359 of 24/11/2015 of the director of the productive activities department, of single authorisation to reactivate section ii of the thermoelectric power plant of Mercure in the municipality of Laino Borgo

[...]

Considered that, as specified also by the Constitutional Court with Order No 128 of 1 June 2016, the admission to legal aid is subject to the existence of the general conditions laid down precisely for the category of Italian citizens in addition to those, specific, referred only to bodies or associations (or to the foreigner);

that those general conditions are represented by the general income limit – applicable without distinction to all subjects who, in any type of proceeding, wish to be admitted to the aid - and by the not manifestly unfounded nature of the claim (Articles 76 and 122 of Presidential Decree No 115 of 2002);

that, in particular, art. 119 d.P.R. 30 May 2002, n. 115 does not imply the admission *tout court* of the ONLUS to the legal aid regime. In fact, this norm has to be interpreted in accordance with the others provisions governing the matter and therefore, in the sense that the treatment benefitting the citizen, as a natural person, is also extended to bodies and associations that do not pursue profit

purposes and do not carry out commercial activities as long as they fall within the parameters of income referred to in art. 76 of the same Presidential Decree no. 115 of 2002, applicable to all cases of legal aid;

that the aforementioned art. 76 provides in paragraph 1 that those who hold taxable income for the purposes of personal income tax, resulting from the last declaration, not exceeding € 11,528.41, may be admitted to the legal aid. The following paragraph 3 (of Article 76) states that, for the purposes of determining this limit, incomes that by law are exempted from personal income tax (IRPEF) or that are subject to source withholding, or to substitute tax, are also taken into account.

That, in the present case, the tax documentation available at the time of filing the appeal (Form 2015) shows an exempted or tax-free income of € 193,413.00;

that the negative budgetary imbalances are not relevant for the purposes examined herein;

for these reasons

The Regional Administrative Court for Calabria (Section One) rejects the complaint.

[...]