

**Aarhus Convention Compliance Committee
Secretary to the Aarhus Convention Compliance Committee
United Nations Economic Commission for Europe
Palais des Nations, 1211 Geneva 10, Switzerland**

(ACCCC / C / 2015/130 (Italy))

compliance by Italy with provisions of the Convention related to the cost of judicial procedures

With reference to your questions:

(a) Please provide the text of the legislative provision or other legal text, together with an English translation thereof, which stipulates that the costs in environmental cases are to be calculated in accordance with the costs applicable for monetary claims of €26,000-€260,000 and €260,000-€520,000 value.

Please find attached an excerpt from Ministerial Decree 55 of 2014.

Article 5 of Ministerial Decree 55 of 2014 - regulation for the determination of the parameters for the settlement of fees for the legal profession - determines the procedures for the settlement of the lawyer's fee charged to the losing party by referring to the value of the case.

The value of the case is determined in accordance with the Code of Civil Procedure or, according to particular criteria, in cases of payment of a sum or damages.

In cases before courts of law, the amount to be paid by the unsuccessful party is based on the economic extent of the substantial interest protected by the decision.

The Supreme Court has ruled that for the purposes of determining lawyers' fees, on the basis of the tariff approved by Ministerial Decree no. 392 of 24 November 1990 (the former tariff, which has not been amended), a dispute brought before an administrative court for the annulment of an act is to be regarded as having an indefinite value where the *causa petendi* of the application is the unlawfulness of the act and the *petitum* rests in its elimination, without any financial implications of the matter being relevant (Court of Cassation, judgment no. 1754/2013).

This principle also applies to environmental cases before administrative judges.

The fees are therefore calculated between those of indeterminate value and therefore between the parameters €26,000-€260,000 and €260,000-€520,000.

(b) Please provide the text of the relevant legal instrument or judgment, together with an English translation thereof, which establishes the criteria which a court must apply to categorise a particular environmental case as of either:

- (i) "Indeterminable" value; or
- (ii) "Indeterminable of particular importance" value.

Article 5 of Ministerial Decree 55 of 2014 provides that: "where a case of indeterminate value is of particular importance by reason of its specific subject-matter, the number and complexity of the legal issues involved, and the significance of the effects or useful results, including those

of a non-pecuniary nature, its value shall be considered as a rule and for these purposes within the range up to €520,000.00".

(c) In the case of a particularly important environmental case which raises very important issues of public interest, which of the above two costs categories would apply? Please provide relevant evidence to support your answer, together with an English translation thereof.

The case law of Italian administrative courts does not provide clear-cut indications on the criteria used to determine the fees. The amounts awarded are normally in the lower range of the ministerial tables and it is therefore not necessary to apply the "indeterminable of particular significance" criteria. As already explained in the previous summons, the particular severity of the order to pay fees is due above all to the number of parties involved in the proceedings. If, as is often the case, there are four or five parties, the amount of EUR 3 to 5,000.00 awarded to each party results in an overall award of EUR 12,000 to EUR 25,000.00.

4. Please provide English translations of the relevant extracts of the following judgments that were annexed to your comments dated 30 April 2018:

- (a) Council of State, judgment no. 1619, 22 February 2018 (Annex 1);
- (b) Constitutional Court, judgment no. 77, 19 April 2018 (Annex 3);
- (c) Administrative Court Marche, judgment no. 118, 2 December 2016 (Annex 4);
- (d) Administrative Court Calabria, judgment no. 1967, 14 September 2016 (Annex 5).

Please find the requested documents enclosed.

In addition, the following documents are enclosed:

- e) Ministerial Decree no. 55/2014 (excerpt)**
- f) Supreme Court, judgment no. 1754/2013 (excerpt)**

Trieste, February 1, 2021

Yours sincerely,

Alessandro Giadrossi