

Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee
United Nations
Economic Commission for Europe

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Italy in connection with judicial fees (ACCC/C/2015/130).

Dear Secretary,

with reference to the issue of costs that judicial procedures entail, the matter is primarily the responsibility of the Ministry of Justice.

However, this Ministry of Environment shows interest and sensitivity with respect to the issue of the reasonableness of the costs that the Party has to bear for access to justice in the environmental field.

In a nutshell, the financial barriers can be summarized in three points:

- the unified tax for the registration, which is a tax to be paid to initiate a judgment;
- the cost of losing the case, that the Party which has promoted a legal dispute has to reimburse to the other Party, winner in the judgment;
- legal aid only for institutions and individuals who have an income of not more than 11,000 Euros.

The removal of financial barriers to access to justice is not easy to solve, in times of tight fiscal policy.

Specifically, eliminating the expenses of a negative outcome does not seem reasonable from a constitutional point of view, as the Party unjustly brought to trial shall be entitled to reimbursement of costs to stand victoriously in court.

Increasing the income ceiling within which you can ask for and obtain legal aid could lead to a considerable burden on the State budget, which is expected to find additional resources to meet the increase in expenses, in the delicate field of justice.

In this regard, differentiating between non-profit associations and other parties does not seem feasible, given that access to justice must be guaranteed to all without distinction.

Perhaps one could act by decreasing the amount of the unified tax for the registration (the initial fee).

This solution must be carefully examined in consultation with the Ministries concerned (Justice and Economy), evaluating the economic impact that the measure would entail.

The Ministry of Environment will organize meetings and initiatives to test the ability of the proposed solution.

With best regards.