

Unofficial translation from the original in Spanish

* Notification Lexnet November 25, 2015

ADMINISTRATIVE CHAMBER OF THE VALENCIA
SUPERIOR COURT OF JUSTICE
SECCTION 1

LEGAL AID CHALLENGE nº: 1 /000055/2015- G

N.I.G: 46250-33-3-2015-0001629

Ponente: D/D^a ESTRELLA BLANES RODRIGUEZ

Demandante /Recurrente: COLLA ECOLOGISTA LA CARRASCA

Procurador /Letrado: ENRIQUE MIÑANA SENDRA /JOSE LUIS RAMOS SEGARRA

Demandado /Recurrido: COMISION DE ASISTENCIA JURIDICA GRATUITA

Procurador /Letrado: /LETRADO DE LA GENERALIDAD VALENCIANA

ORDER

Magistrados Ilmos. Sres.:

Presidente:

MARIANO FERRANDO MARZAL

Magistrados/as:

M^a. BELEN CASTELLO CHECA

ESTRELLA BLANES RODRIGUEZ

In Valencia on 23 November of two thousand and fifteen.

FACTUAL BACKGROUND

ONLY ONE: Challenged by COLLA ECOLOGISTA LA CARRASCA the refusal of the right to free assistance and marked the attendance that prevents the Act the proof consisting in the proceedings in accordance with the provisions of the article 20 Free Assistance Act is practiced.

LEGAL REASONING

ONLY ONE : The legal aid applicant states that seeks recognition of this benefit under art. 23 of Law 27/2006, by which the rights of access to information, public participation and access to justice in environmental matters is regulated, recognition of the right to free legal aid for filing and application in an administrative ordinary procedure to be an environmental organization and be entitled to exercise public environmental action and the Law 27/2006, which aims to the prescriptions and objectives on access to information, public participation in decision making and access to justice in environmental matters in the Aarhus Convention; in particular and what matters now, in order to improve the access of environmentalists to the courts to environmental organizations, considers that Article 23.2 recognized his right to access to legal aid.

Consistently examined the evidence taken in the justification of the applicant's income can be seen that its resources and income calculated annually for all concepts, do not exceed the limits specified in Article 3.5 of Law 1/1996, as revenue in 2013 and 2014 do not exceed three times the IPREM circumstances contemplated in art. 5 the Law of Free Legal Aid and also that your request, does not include the appointment of an attorney and solicitor, and requesting legal aid for the sole purpose of paying taxes imposed by law 10/2012 and the mandatory imposition of taxes.

The Chamber does not accept the approach of the objecting environmentalist association that comes to argue that is a beneficiary of the right to legal aid by express legal provision, so to dispose Article 23.2 of Law 27/2006, by which the rights of access to information, public participation and access to justice in environmental matters is regulated.

And, even being unquestioned contributing thereto the requirements of the stated article, we do not share the reasoning underlying the approach,

Indeed, in order to improve the access to the courts to environmental organizations, paragraph 23.2 of Law 27/2006, of July 18, establishing the rights of access to information, public participation and access to justice in environmental matters, recognized the right to free legal aid to non-profit legal persons, which meet the requirements in the first paragraph of that article which provides the exercise of popular action on environmental issues.

But the scope of the provision of section two of this article, it does not imply that the plaintiff becomes a beneficiary of the right to free legal aid by express statutory provision, recognized as other sectoral rules recognize that right, regardless of the availability of resources to litigate or eventual declaration of public interest to members of the armed forces (ex. Art. 10 LO 4/87), management entities and common services of the Social Security (Art. 2b Law 1/96), The Spanish Red Cross, consumer associations and users in the terms provided in Article 2.2 of Law 26/1984).

There is no express rule which provides legal recognition that implies, therefore, that these entities be eligible, and therefore request the benefit of Legal Aid, since Article 23.2 of the Law 27/2006 refers expressly relied on free legal aid to the term provided by law 1/1996 prevailing on the date of the application for legal aid and continues in force: the requirement of declaration of public utility provided in Articles 2 c) and 3.6 of the Law 1/1996 of January 10, Legal Aid, for the recognition of AJG [Free Legal Aid] to legal persons.

The Chamber knows the judgments cited the Order of the Superior Court of Extremadura of 22 April 2013 (Contentious-Administrative, First Section) and the Order 174/2013 of 15 May Administrative Court no. 6 Murcia, which recognized the right of access to legal assistance and Associations affect the removal of economic barriers to access to justice is one of the measures provided for in Article 9 of the Aarhus Convention, in which ninth paragraph states that "... each Party will consider the establishment of appropriate assistance mechanisms aimed at eliminating or reducing financial or otherwise impeding access to justice barriers." but we disagree.

Since Spanish legislation does not recognize the right to access to legal aid to environmental organizations, non-profit organizations that meet the requirements for the exercise of popular action, as set out above, thus being lawful reason invoked by the Commission for the denial of legal aid, Article 23.2 of Law 1/1996 not be the plaintiff, an association of public utility under Article 32 of the organic Law 1/2001 regulating the right of association.

Because of the above

THE CHAMBER DECIDES: Dismiss the protest made by COLLA ECOLOGISTA LA CARRASCA, Ecologists in Action against the decision by the Commission on 29.4.2015 Legal Aid of Valencia.

This resolution shall be notified to the Commission on Legal Aid.

Take testimony of this resolution to the main case.

This decision CANNOT BE APPEALED as provided in Article 20 of the Law on Free Assistance

Agrees, sends and sign the Ilmos. Sres. listed aside, before me this / the Lawyer / a A. Justice, which attest.

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