

## ACCESS TO JUSTICE BY ENVIRONMENTAL ASSOCIATIONS: RECENT TRENDS IN THE ITALIAN LEGAL SYSTEM

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### ADMINISTRATIVE JURISDICTION

- Regional Administrative Tribunals (*T.A.R.*) – first instance
- Council of State – second instance
- Competence on "legitimate interests": interest into the legality of an administrative decision issued by the PA
- Residual competence on "subjective rights" over some matters such as:
  - access to administrative documents;
  - decisions of the PA regarding energy production;
  - management of waste cycle;
  - decisions adopted in violation of environmental damage regulations.

### STANDING CRITERIA - I

In order to be recognized by the Ministry of the Environment the environmental associations must:

- have democratic internal rules;
- pursue objectives of environmental protection;
- have continuity of action;
- **the activity must be nation-wide or reaching at least five Regions** (out of twenty).

### STANDING CRITERIA - II

- Council of State, 15 February 2012, n. 784: it allowed standing to the local branch of *Legambiente* as it was representing the interests prejudged by the administrative decision under consideration.
- T.A.R. Sicily (Palermo), 15 March 2012, n. 552: it allowed standing as it was clear that the local association was pursuing objectives of environmental protection and that it had a concrete and stable link with the territory affected by the administrative decision.

### NOTION OF ENVIRONMENTAL INTEREST

- Law 349/86: power to challenge environmental decisions *stricto sensu* – exclusion of urban and planning acts.
- T.A.R. Lombardy (Brescia), 10 December 2012, n. 1927 (*WWF Italia, Italia Nostra and Legambiente v. Lombardy Region*): it granted legal standing for the annulment of a cave plan as the planning activities clearly interfere with areas of environmental and naturalistic importance.

### ROLE OF THE ENVIRONMENTAL ASSOCIATIONS IN CRIMINAL PROCEEDINGS

Two major trends:

- The environmental associations are allowed to take part in criminal proceedings by exercising the civil action in order to claim damages for the injury to the environmental objectives expressed in their statute – Majority of case-law.
- The environmental associations cannot claim damages but only intervene in criminal proceedings upon the consent of (and exercising the same powers of) the victim person – Few cases.



**THANK YOU!**

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