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NO MORE TAXES FOR IMMIGRANT'S RESIDENCY PERMIT RENEWAL OR RELEASE

Lazio's Regional administrative court, together with European law, remove the obligation to pay for residency permit renewal or release.

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Lazio's Regional administrative court intervened again on residency's permit behalf with sentence No. 6095 of 2016, removing the obligation to pay for the permit renewal or release chargeable to foreigners. As a matter of fact, Administrative law judge accepted CGIL and INCA's plea and approved the annulment of the Ministry of economic development's law decree as concern the part involved in the payment of taxes and which published on the Official journal No. 304 of the 31st of December 2011 and which dates back to the 6th of October 2011.

Article No. 5 comma 2-third of the following legislation establish that in order to ask for residency's permit renewal or release, the applicant must pay a tax, whose payment modalities were established in the next article 14-bis comma 2.

More specifically, decree's obligation were thus characterized:

80,00 € for a more than a 3-months and lower or equal to a year residency permit duration;

100,00 € for a more than a 1-year and lower or equal to a 2-year residency permit duration;

200,00 € for european residency permit release to those who spent a long period in a place and for those who ask for residency permit according to the principles of article 27 comma 1, letter a) legislative decree 286/1998

Plaintiffs highlighted the following crucial problems:

Constitutional illegitimacy of articles 5 comma 2-third and 14-second, it violates Constitutional principles of article 3, 53 and 97 that is equality, rationality, contributory capability, neutrality and administrative's action good performance, as well as for article 9 of International labour organization No. 143/1975 violation.

Power excess due to manifest nothings and detour;

Article 14-second comma 2 legislative decree 286/1998 **violation and false application** as concern the destination of thus said "remaining amount" of contribute's income

Lazio's Regional administrative court in order to decide as concern the plea, made

reference to EU law. More specifically member States, according to Court of justice and as established by directive **2003/109**, can determine with discretion by themselves the fees in order to obtain the release of residency permits. However, State's discretionary power has its own limits. As a matter of fact member States cannot employ national norms which threaten the achievements of the directive.

In this case, directive's 2003/109 main purpose is to look forward the integration of third-country nationals which took the decision to settle up home for a long period within a Member State. Hence, each member State is authorized by the already mentioned directive to establish taxes for residency permit release. But, according to legislation, the amount must not represent **a constraint** for long-term resident status achievement. According to the judge's opinion, a State respects the directive's principles only if tax amount results to be equal to the amount required for the obtainment of similar title for a State's citizen, consequently must not be excessive in relation to that amount.

CJEU has expressed itself on Lazio's Regional administrative court preliminary issue through sentence which dates back to the 2nd of September 2015, by saying: "Council's directive 2003/109/CE, concerning third-country nationals' status as long term immigrants, clearly goes against a main procedure's national norm (which impose an unequal contribute of 80 or 200 Euros to third-country national which demand for release or renewal of residency permit, and which clearly represents an obstacle to Rights established by that law)".

For that reason Lazio's regional court, being the national norm in contrast with the communitarian one, decided to **disapply** it. For instance the association, sharing the effectiveness of contribution's illegitimacy, approved and undid disputable articles of decree No. 304/2011