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COMPENSATION FOR DAMAGES FOR LATE PAYMENTS FROM THE PA: TAR LOMBARDIA-MILANO JUDGEMENT NO. 94 OF 2015

With the recent Judgment no. 94/2015, Tar Milano upheld an appeal for compensation for damages caused by the delayed conclusion of the administrative procedure which the Court was called to consider.

Specifically, a municipality had been sued for having issued with a delay of several months a permit for the installation of an advertising sign.

This decision proves interesting because, firstly, the administrative judge placed the damage caused by the said delay in the context of contractual liability, stating that the legal interest protected by art. 2a of Law 241/1990 is not limited to the "time" but should also include the expectation of incremental utility expected following the successful conclusion of the proceedings.

With the affirmation of this principle, the Court has clarified not only that the action for damages (art. 30 c.p.a.) is autonomous, as it is not affected (nor from a substantial, neither from a procedural point of view) from the acceptance of the claim, but also that for the purposes of accepting the claim, the simple demonstration of the existence of the delay will not suffice in itself, but the claimant will be required to provide evidence of economic loss directly attributable to the guilty or malicious delay in the issuance of the permit, as well as proof that the claimant tried to prevent such loss.

In the decision herein under consideration, the Tar acknowledged that the arguments brought by the applicant were appropriate and satisfied all the necessary requirements needed to obtain the damages sought, and condemned the administration to liquidate the damages suffered by the claimant on an equitable basis, in addition to interest and legal costs.

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Todarello & Partners provides legal assistance on all issues relating to topics covered in this article. The lawyers of the Firm have significant experience in the

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