

NO. 04001/2017REG.PROV.COLL.

The Council of State

(Fifth Section)

has released the present

Judgment

on the appeal filed by Associazione Italiana World Wide Fund For Nature Onlus (WWF) - NGO, with Alessio Petretti, Angelo Pozzan and Alfiero Farinea,

vs.

Veneto Region, with lawyers Gabriele Pafundi and Monica Fant,

Commission for the Safeguarding of Venice, Ministry of Infrastructure and transport;

Consorzio Venezia Nuova, with lawyers Angelo Clarizia, Benedetto Giovanni Carbone and Alfredo Biagini;

Water Authority, Ministry of the Environment, Land and Sea;

Ministry of Cultural Heritage and Activities;

Ministry of Infrastructures and Transport represented and defended by law by the Attorney General's Office of the State;

and the Municipality of Venice

against the judgment of the Regional Administrative Tribunal (T.A.R.) of Veneto, Section I, no. 3367/2008.

Having regard to the appeal and its annexes;

Having regard to the deeds of the Veneto Region, the Consorzio Venezia Nuova, the Water Authority, the Ministry of the Environment and Protection of Land and Sea, the Ministry of Cultural Heritage and Activities and the Ministry of Infrastructure and Transport;

FACTS OF THE CASE

By resolution of the Regional Council n. 150 of 28 January 2005, the Veneto Region completed the EIA investigation, in accordance with the opinion expressed by the Regional EIA Commission at its meeting of 20 December 2004, approved the project by which two sites were identified for the on-site prefabrication of the reinforced concrete caissons necessary for the construction of the MOSE (Experimental Electromechanical Module) at the Malamocco and Chioggia inlets (the final design of which was approved by the Technical Committee of the Water Authority at its meetings of 8 November 2002 and 6 June 2003, with the subsequent favourable opinion expressed by the Safeguard Commission on 20 January 2004).

Since these sites are affected by landscape constraints, given the imposing size of the platform and the caissons, and given the insistence of this platform not only at sea but also on the beach, the Superintendence for Architectural Heritage and Landscape requested the opinion of the Avvocatura dello Stato.

Through the first instance appeal no. 2289/2007, today's appellant WWF Italia Onlus also challenged the resolution of the Commission for the Protection of Venice of July 31, 2007, as well as the aforementioned DGR no. 150 of January 28, 2005 (with a favourable opinion on environmental compatibility).

With additional grounds of appeal, the aforementioned Water Authority Decrees no. 3714/2006 and no. 6757/2007 were also appealed at first instance.

With the above-mentioned herewith challenged judgment the T.A.R. of Veneto dismissed as partly inadmissible and partly inadmissible the appeal No 2275/2007 and dismissed as inadmissible the appeal No 2289/2007.

[...]

5. For the reasons set out above, the appeal cannot be upheld, albeit for reasons in part different from those set out in the judgment under appeal and consisting in part in the unfoundedness, in part in the inadmissibility and partly in the inadmissibility of the appeal.

The costs of this proceeding are settled according to the costs follow the event rule as in the following paragraphs.

The Council of State in jurisdictional seat (Section Five), definitively pronouncing on the appeal, as in the proposed epigraph, the rejects.

Condemns the plaintiff to bear the costs of the dispute, which he settles in euros 5,000 (five thousand), in addition to the legal expenses incurred by each of the other parties of this proceeding.

So decided in Rome in the council chamber on 15th June, 2017.

Giuseppe Severini, Chairman

Roberto Giovagnoli, Director

Claudio Contessa, Countess, Extender

Valerio Perotti, Director

Stefano Fantini, Director

THE EXTENDER THE PRESIDENT

Claudio Countess Giuseppe Severini