

REGIONAL ADMINISTRATIVE COURT FRIULI VENEZIA GIULIA – TRIESTE, SECTION 1,
JUDGMENT 31 OCTOBER 2017, no. 335

The case in question resulted from the rejection made by the Municipality of Trieste of a proposal of project finance concerning the provision of heating and electricity powers in order to use the buildings, of global service related to the systems in school buildings and concerning the global service of systems in museums and offices.

The plaintiff complained about a lack of motivation in the decision of the refusal, which was limited to the intention of the administration of “*not wanting to leave the Consip track*” – meaning to be willing to join the agreement stipulated by the central purchasing body for the heating system.

The Regional Administrative Court has decided that, even though the public administrations have a broad margin of discretion in evaluating the correspondence of the public interest in proposals of project finance, also the public-private partnership is subject to the general principles contained in the law no. 241/1990 and, in particular, in the obligation borne by the administrations and administrated determines the obligation to answer the request, even if the obligation is not defined by regulations, but the Administration has led to the private lawful awarding.

In the case in question, the administrative judges believed the Municipality to have given the private proposer a lawful awarding since it has established a specific working group entrusted with the investigation, which has positively declared the existence of the conditions for the public interest and the feasibility of the operation.

Therefore, the administration of the municipality should have adequately justified, by specifying the reasons why it has preferred to use the agreement with Consip, rather than using the project finance.