

# **CLAIMS, APPEALS, CONCILIATION, ARBI- TRATED AND EXCLUSIVE COMPETENCE OF THE MILAN COURT**

## **INDEX**

1. Scope and application field
2. References
3. Procedure
  - 3.1 Claims
  - 3.2 Appeals
    - 3.2.1 Informal resolution of the appeals
    - 3.2.2 Formal resolution of the appeals
    - 3.2.3 Conclusion of the controversy
    - 3.2.4 Expenses
  - 3.3 Arbitration and exclusive competence of the Milan Court
  - 3.4 Recording
4. Applicable law
5. Confidentiality
6. Attachments

## 1. SCOPE AND APPLICATION FIELD

This procedure illustrates the ICILA procedure to manage the cases in which the evaluated Company, or whichever interested part, is not satisfied of the ICILA performances with regard to the activities of systems certification for Chain of Custody and Forest Management related to FSC Accredited standards. The present procedure is public and distributed to anyone asks it.

## 2. REFERENCES

This procedure refers to the section 09 of the ICILA Quality Manual.

## 3. PROCEDURE

### 3.1 Claims

Definition of claim: one manifestation of dissatisfaction of ICILA performances (technical, administrative, in the times of answer, etc).

The eventual claim will have to be introduced, in written shape, to the Responsible Certification and Technical Management (RCeT) of ICILA.

The claim, listed in appropriate registry (par. 3.4) will be analyzed from the Responsible Certification and Technical Management; with the other ICILA involved functions RCeT will identify eventual actions to undertake within 30 working days from the reception date; in the meantime RCeT will send written answer to who have transmitted the claim within 45 working days.

RCeT can identify the needs of issuing a corrective action, managed in compliance with the relative procedure.

Responsible Certification and Technical Management has the responsibility to verify the satisfaction of who has forwarded the claim.

If the part that has forwarded isn't satisfied of the actions undertaken from ICILA, this can proceed and introduce an appeal (cfr. § 3.2).

### 3.2 Appeals

The word appeal, in reference to the present procedure means: a documented manifestation of not acceptance of the ICILA activities about the certification or the application, the interpretation, the execution and the resolution of the contract, related to procedure ICILA FSC certification procedures.

The eventual appeal must be addressed to the ICILA Responsible Certification and Technical Management by a registered letter. Copy of the letter of appeal and the eventual relative documentation is sent, from secretariat ICILA, to President of the Committee of Quality Systems Certification of ICILA, that is formally entrusted as "Conciliator for disputes related to the application of the accredited FSC certification procedures", in the following indicated as "Conciliator COC/FM". The Conciliator COC/FM has the authority to try to reach conciliations between ICILA and the part that has issued the appeal in reference with ICILA FSC certification activities.



The President of the Committee of Quality Systems Certification of ICILA is independent both from the FSC accredited certification processes and from the daily putting in place of ICILA the procedures. It is therefore in a position to assuming the role of Conciliator COC/FM and to lead impartially eventual enquiries or deepenings on the activities contested to ICILA in the putting in place of the FSC accredited certification processes, facilitating the dialogue between the parts.

### 3.2.1 Informal resolution of the Appeals

A first attempt of informal resolution of the appeal is started from the Responsible Certification and Technical Management of ICILA.

It will contact, by telephone or by written, the interested part and will try a friendly resolution.

In case a resolution of the appeal is reached, the relative practice will be sluce annotating on the appropriate registry the relative information (point 4,4).

If, instead, within 30 days from the reception of the communication, the Responsible Certification and Technical Management will not reach a friendly conclusion, or if the interested part refuses every attempt of conciliation, all the documentation eventually produced and a letter of bestowal of assignment will be transmitted from the ICILA secretary to Conciliator COC/FM, who will start a formal attempt of resolution of the appeal.

Conciliator COC/FM does not decide the controversy but it helps the parts to find a satisfactory agreement.

### 3.2.2 Formal resolution of the Appeals

The Conciliator COC/FM, after the reception of the documentation, will check it and will try to reach an agreement within 60 days from the reception of the documentation. This time can be increased, until a maximum of 6 (six) months, if the period is agreed by the two parts.

If within 60 days (or a differently defined period) without reaching to an agreement, without documented reasons, the dispute is evaluated as "not closed" and the process continues with the following phase of the present procedure (communication to FSC and eventual arbitration management).

The search of objective evidences and the attempt of agreement indicatively will be lead from Conciliator COC/FSC will be managed as listed above:

1. collection of all the documentation, from ICILA and the interested, inherent part the event that has caused the appeal;
2. demand written or oral for deepenings on little clear aspects of the documentation or the communicated motivations;
3. listening both the parts, together or separately;
4. if necessary, in the case the appeal is related to the audit phases or the evaluation of the audit reports, the Conciliator COC/FM can ask the opinion of the Environmental Certification Committee. If he identifies the need of further evaluations, he can arrange a further audit, charging a new and different audit team;



5. a technical consultant, appreciated from both the parts, can be charged, in the case the Conciliator COC/FM evaluate this as a necessary action in order to facilitate the resolution of the appeal.

The Conciliator can modify the list of the actions over indicated in order to make fore-head to situations for which it is necessary a different approach.

He however will have to always lead the own actions towards the resolution of the dispute through the impartiality of its behavior, the dialogue between the parts and the search of objective evidences.

ICILA will supply the secretariat support, in managing the contacts between the parts, recording the documentation, writing up the reports, etc

The necessary meetings will be organized in Milan, a part of exceptional cases the can be agreed between the parts.

### 3.2.3 Conclusion of the controversy

The controversy is considered positively concluded when the parts reach to an agreement that composes partially or completely the controversy, and the part that issued the appeal, formally withdraw it. Conciliator COC/FM writes a report of conciliation undersigned by the parts; on it they are indicates the object of the controversy, the conditions established for its resolution and the modalities of their performance.

The Responsible Certification and Technical Management of ICILA will receive the documentation and will record the relative information on the appropriate registry (cfr. § 3.4).

If the parts didn't reach any agreement, after the complete implementation of the present procedure, Conciliator COC/FM writes a short report in which the motivations of the relative failure are indicated and he reports the situation to FSC Secretary, communicating the name of the part that issued the appeal, the object of the appeal and the reasons of lacked agreement. The Responsible Certification and Technical Management of ICILA will receive in copy such documentation and will provide to record the relative information on the appropriate registry (cfr. § 3.4).

In case of lacked agreement, the Conciliator COC/FM invites the parts to submit the controversy to arbitrating, in compliance with the Regulations Arbitrates of the Court of Milan (cfr. § 3.3).

### 3.2.4 Expenses

Expenses related to the work of Conciliator COC/FM and to eventual verification will be covered by ICILA only if there is evidence of not conformity in the activities of ICILA in applying FSC requirements; on the contrary the expenses payed by the part that introduced the appeal.

In the event of lacked agreement, expenses will be charged to the part that dislike to open the arbitrated. In the case the arbitrated is opened the expenses will be charged to the part that, at the end of the arbitrates procedure, that loose the arbitrated.

Direct expenses of secretariat, transport, lodging, etc they remain in charge at the part that it has managed them.



### 3.3 Arbitrated and exclusive competence of the Milan Court

After the actuation of the previous indicated procedures without reaching to a solution, the controversies, with the exception for the relative issues to the payments of the performances of ICILA for which the Milan Court will be obligatorily competent, they will be allocated to the decision of a college arbitrates formed them from three members. The first two will be named from each one of the two parts and the third party, with has the role of President, will be defined from the first two or, in case of discord, from the Arbitrates Council of Milan Chamber of Commerce, that will take care also of the identification of the arbitrator of that part that has not supplied the name.

The arbitrated one will be formal and the college arbitrates will judge them according to right, in compliance with the "International Arbitration Rules " that the parts express declare to know and to accept in each part. The procedure will not exceed the 90 days from the warehouse of the request. The location of the Court will be Milan.

For the monitory procedures and for each necessity to apply to the Ordinary Judge, the Milan Court will be exclusively competent .

### 3.4 Recording

The Responsible Certification and Technical Management annotates on an appropriate registry all the claims or appeals, indicating, in particular:

- the interested part that it has introduced the claim;
- the answer supplied from ICILA;
- the actions undertaken from ICILA in order to reach a conciliation;
- The result of such actions (eventual closing or not of the dispute).

Such recordings are maintained for a period of at least ten years in ICILA archives.

## 4. Applicable law

The applied law is the Italian one.

## 5. Confidentiality

All the information and the documentation collected for the management of the present procedure are confidentially managed. Conciliator COC/FM, at the moment of the acceptance of the assignment, is engaged to not disclose all the information he will know.

The parts and all those who take part in the conciliation attempt are engaged not to reveal to thirds party the information they will know during the development of the management of the case; they are moreover engaged not to call Conciliator COC/FM to testify on the facts or circumstances in taken place it, in case of eventual following controversy procedures promoted from the parts in relation to the same controversy.

## 6. Attachments

- International Arbitration Rules