



I T A L I A N   R E P U B L I C

The Council of State

Judging Court (Sixth Section)

has issued this

**RULING**

on appeal no. 8702/2009, submitted by: Elena Cattaneo, Elisabetta Cerbai and Silvia Garagna, represented by the attorneys Marco Cuniberti, Sergio Vacirca and Vittorio Angiolini, with elected domicile at the offices of Sergio Vacirca in Roma, via Flaminia 195;

***against***

the Permanent Conference for Relations between the State, the Regions and the Autonomous Provinces, the Prime Minister's Office, the Ministry of Employment, Health and Social Policy, represented by the Attorney General, domiciled by law in Rome, via dei Portoghesi, 12; *Movimento per la Vita*, represented by Raffaele Izzo, Aldo Loiodice, Isabella Loiodice and Filippo Vari, with domicile elected at the offices of Aldo Loiodice in Rome, via Ombrone 12 Pal. B;

***for the overturning***

of the suspensive decision of the Regional Administrative Court for Lazio – Rome, Section III-*quater*, no. 03477/2009, issued inter partes, concerning the 2008 CALL FOR BIDS FOR HEALTH RESEARCH INVOLVING STEM CELL PROJECTS.

Considering Art. 21, final paragraph, of Law 6 December 1971, no. 1034, as amended by Law 21 July 2000, no. 205;

Considering the appeal with the relative Exhibits;

Considering all case papers;

Considering the order dismissing the first instance interim petition;

Considering the Entry into Appearance and Statement of Defence of the administrations against which the appeal has been brought;

Considering the Entry into Appearance and Statement of Defence of *Movimento per la Vita*;

Judge *Rapporteur* of the court convened in Chambers of 1 December 2009 Rosanna De Nictolis and the attorneys Angiolini, Loiodice, Vari and the Attorney General Fedeli having been heard for the parties;

It being held that :

- a) in the absence of a drafted and submitted research project and of an application to participate in the call for bids (albeit destined for exclusion), it seems highly doubtful that there is any entitlement to appeal;
- b) the fact that the law permits research on human embryos for therapeutic and diagnostic purposes does not oblige the administration to award public funding for such research, the decision as to which types of research are eligible for funding coming within the discretionary power of the call for bids.

#### FOR THESE REASONS

Dismisses the appeal (no: 8702/2009).

This ruling shall be executed by the Administration and is filed with the Secretary's Office of the Section which shall notify the parties of it.

So decided in Rome in Chambers on 1 December 2009 with the intervention of:

Giovanni Ruoppolo, Presidente

Paolo Buonvino, Judge

Rosanna De Nictolis, Judge, Judge *Rapporteur*

Domenico Cafini, Judge

Maurizio Meschino, Judge

**JUDGE *RAPPORTEUR***

**THE PRESIDENT**

FILED WITH THE SECRETARY'S OFFICE

02/12/2009

THE SECRETARY

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An authenticated copy of this order (relating to appeal no. 8702/2009) has been  
sent to .....

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Pursuant to Art. 87 of the Procedure Regulation 17/08/1907 no. 642.

Rome .....

THE DIRECTOR