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Compliance Proceedings Without Enforcement Formula and Administrative Default

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ABSTRACT
Council of State judgment no. 7150/2026 confirms that compliance proceedings for legal costs against a defaulting municipality require neither the enforcement formula nor prior formal notice. This commentary identifies a textual flaw in the court's reliance on Article 115(3) of the Administrative Procedure Code, repealed by Legislative Decree no. 149/2022, demonstrating that the exemption now stems from the general abolition under amended Article 475 of the Code of Civil Procedure. It also examines the valid commencement of the 120-day waiting period through service at the authority's registered office and confirms that administrative default does not shift the debtor's burden to prove payment under Article 2697 of the Civil Code.

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Compliance Proceedings Without Enforcement Formula and Administrative Default

Analysis of Council of State Judgment of 24 September 2026, no. 7150 on Administrative Enforceable Titles, the 120-Day Waiting Period, and the Burden of Proof

CASE DOSSIER

COURT
Council of State (Consiglio di Stato)

DECISION
Judgment of 24 September 2026, no. 7150

KEY PROVISIONS
Legislative Decree of 2 July 2010, no. 104 (Administrative Procedure Code), Articles 114, 115, and 136 • Law Decree of 31 December 1996, no. 669, converted into Law of 28 February 1997, no. 30, Article 14 • Italian Civil Code, Article 2697

HOLDING
upheld within the limits stated in the reasoning, ordering compliance within sixty days and appointing a substitute commissioner

JEL: K41, K23 • EuroVoc: 1539, 2695, 517 • Reading 10 min

Paola De Virgiliis ISSN 3103-7305

LEGAL PRINCIPLE / EDITORIAL HEADNOTE

In compliance proceedings for pecuniary orders against public authorities, neither an enforcement formula nor prior formal notice is required, provided that the 120-day statutory waiting period has validly elapsed from service at the authority's registered office and subject to the defaulting debtor's burden to prove payment.

KEY TAKEAWAYS

01 Enforceable title without formula
The repeal of Article 115(1) and (3) of the Administrative Procedure Code does not reinstate the enforcement formula, as amended Article 475 of the Code of Civil Procedure requires only a certified true copy.

02 Waiting period and valid service
The 120-day waiting period under Article 14 of Law Decree no. 669/1996 runs exclusively from service of the title at the public body's actual headquarters via certified electronic mail drawn from official public registries.

03 Default and burden of proving payment
The public authority's non-appearance does not amount to direct proof of non-performance, yet leaves unsubstantiated the extinguishing fact resting on the debtor.

04 Non-recoverable costs and coercive penalties
Civil formal demand costs remain non-recoverable in compliance proceedings, whereas coercive penalty payments follow strict thresholds of equity and party request.

ABSTRACT

Council of State judgment no. 7150/2026 confirms the admissibility of compliance proceedings without an enforcement formula or prior formal notice for the recovery of legal costs against a defaulting local authority. The analysis nonetheless identifies a reasoning flaw in the court's textual reliance on paragraph 3 of **Article 115 of the Administrative Procedure Code**, formally repealed by Legislative Decree no. 149/2022, reconstructing the current statutory basis of the rule in the uniform abolition enacted under **Article 475 of the Code of Civil Procedure**. It further examines the valid commencement of the **120-day waiting period** through service at the authority's registered office, together with the procedural neutrality of **administrative default** regarding the debtor's burden to prove payment under Article 2697 of the Civil Code.

COMPARATIVE & EUROPEAN LEGAL FRAMING

Institutional & EU Nexus: As Italy's supreme administrative court, the Council of State (*Consiglio di Stato*) oversees the enforcement of final judicial orders against public administrations through the specialized compliance procedure (*giudizio di ottemperanza*) under Articles 112–115 of Legislative Decree no. 104/2010, ensuring effective judicial protection consonant with Article 6 ECHR and Article 47 of the EU Charter of Fundamental Rights. **Comparative Common Law Lens:** Unlike UK or US systems where money judgments against government bodies rely on statutory payment certificates or mandamus-style orders without a substitute administrative official, Italian administrative law pairs a mandatory 120-day budgetary grace period with judicial appointment of an auxiliary substitute official (*commissario ad acta*) vested with direct powers to disburse public funds.

01. INTRODUCTION: COUNCIL OF STATE, JUDGMENT NO. 7150/2026

Council of State (*Consiglio di Stato*) judgment of 24 September 2026, no. 7150[1] examines the sequence of **procedural and evidentiary requirements** governing administrative enforcement actions for pecuniary claims against local authorities. At the core of the ruling lie **compliance proceedings without an enforcement formula** brought to recover legal costs awarded directly to counsel who advanced litigation expenses (*difensori antistatari*). The judgment confirms the immediate availability of the remedy once the **statutory waiting period** has elapsed, even where the respondent administration elects not to enter an appearance.

§ 2 From an exegetical standpoint, the reasoning calls for a close inspection of the statutory provisions invoked. Whereas the operative ruling aligns with the post-Cartabia reform framework, the reasoning still quotes verbatim a paragraph of Article 115 of the Administrative Procedure Code that has already been expressly repealed from the statute book. It is therefore necessary to dissect that passage in order to separate the **systemic soundness of the rule** from the fragility of the textual foundation cited.

§ 3 The analysis will proceed through a sequential examination of the stages of the enforcement action. First, it will verify the scope of standing and the validity of service required to trigger the 120-day waiting period. It will then address the reform of the **enforceable title** and the allocation of the **burden of proof** in the face of **administrative default**.

02. PREREQUISITES FOR COMPLIANCE PROCEEDINGS WITHOUT AN ENFORCEMENT FORMULA

2.1 — Counsel's Direct Claim for Legal Costs and the Procedural Background

§ 4 A close reading of the opening paragraphs of Council of State judgment no. 7150/2026[1] establishes the essential parameters of the enforced title. Two lawyers acted in their own right to enforce an earlier administrative judgment delivered in January 2025. That decision had ordered the Municipality of Amantea to reimburse **two-instance litigation costs** by direct diversion to counsel.

§ 5 Specifically, the merits judgment had liquidated EUR 1,500.00 for the first instance and EUR 2,000.00 for the appellate instance. The applicants accordingly effected **separate service of the judgment** upon the local authority on 5 February 2025 and 11 April 2025. Subsequently, on 13 March 2026, the formal certificate attesting ***res judicata*** **finality** was issued.

§ 6 Upon filing the compliance petition, the creditors quantified their claims inclusive of statutory accessories. The sum due amounted to EUR 1,794.00 for the first lawyer (fee, **15 per cent general overhead**, and 4 per cent pension contribution, plus VAT if applicable) and EUR 2,918.24 for the second (inclusive of general overhead, pension contribution, and value-added tax). Alongside the claim for **interest and monetary revaluation**, the applicants requested the appointment of a substitute compliance commissioner (*commissario ad acta*).

§ 7 The Municipality of Amantea did not enter an appearance, leaving the applicants' documentary account uncontested. Consistent with the statutory architecture, the direct award of costs to **counsel with a direct entitlement** (*difensore antistatario*) establishes an **autonomous obligational relationship** vis-

à-vis the unsuccessful public body. This legal position accordingly confers direct standing upon counsel to institute enforcement proceedings before the administrative court.

2.2 — The Administrative Enforceable Title and the Exemption from Prior Formal Notice

§ 8 A textual reading of Article 114 of the Administrative Procedure Code sets the procedural entry threshold without imposing superfluous extrajudicial steps. Paragraph 1 expressly stipulates that the action may be brought "even without prior formal notice" by means of an application served upon the parties. That provision definitively superseded pre-2010 case law requiring a **formal notice of default**. Under paragraph 2, admissibility depends solely upon filing the judgment "in certified copy" together with "proof, where applicable, of its having acquired *res judicata*".

§ 9 Alongside this formal requirement, the classification of the payment order as an **enforceable title** rests on Article 115(2) of the Administrative Procedure Code. Decisions ordering the payment of sums of money "also constitute an enforceable title for execution under Book III of the Code of Civil Procedure and for the registration of a judicial mortgage". The statutory text thereby establishes a **dual-track system of remedies** between ordinary civil execution and administrative compliance proceedings. Certification of ***res judicata***, coupled with the expiration of the statutory waiting period, thus completes the conditions of admissibility.

2.3 — When the 120-Day Statutory Waiting Period Commences

§ 10 The **120-day statutory waiting period** runs exclusively from service of the enforceable title effected at the actual registered headquarters of the debtor administration. Neither service upon the State Attorney's Office (*Avvocatura dello Stato*) nor transmission to an electronic address omitted from official public registries produces that effect.

§ 11 This safeguard derives from Article 14(1) of Law Decree no. 669/1996, which applies equally to compliance proceedings for liquidated pecuniary claims. Public bodies must complete their payment procedures "within one hundred and twenty days from service of the enforceable title". The statute further specifies that "before such period expires, the creditor may neither initiate forced execution nor serve a formal writ of payment (*atto di precetto*)". Its *ratio* lies in enabling **voluntary performance by the public accounting apparatus** while preventing unnecessary enforcement costs.

§ 12 The practical weight of this condition is illustrated by Regional Administrative Court (*TAR*) Lazio, Rome, judgment no. 22076/2025[2], which declared a compliance petition inadmissible despite prior formal service. The creditor had dispatched certified electronic mail to an address not listed in the **official public registries** designated under Article 16-ter of Law Decree no. 179/2012. Conversely, service upon the **State Attorney's Office** operates solely for procedural purposes and does not activate the paying offices. Verification of the authority's **official digital domicile** therefore constitutes an indispensable preliminary step.

03. THE REPEAL OF ARTICLE 115(3) OF THE ADMINISTRATIVE PROCEDURE CODE AND THE SOUNDNESS OF THE REASONING

3.1 — The Textual Short-Circuit in Invoking Repealed Paragraph 3

§ 13 At paragraph 7 of its reasoning, Council of State judgment no. 7150/2026[1] states that service does not require an enforcement formula by virtue of Article 115(3) of the Administrative Procedure Code, contrasting that derogation with paragraphs 1 and 2. Direct inspection of the current wording of Article 115, however, refutes the continued validity of that statutory premise. Both paragraph 1 and paragraph 3 were in fact **expressly repealed** by Legislative Decree no. 149 of 2022.

§ 14 Comparative examination reveals an **internal dissonance** within administrative jurisprudence itself. While citing its own precedent in Council of State judgment no. 5716/2025[3], the Panel omits the very systemic explanation articulated in that earlier decision. That ruling had clarified that the repeal of Article 115(3) does not revive the requirement of an enforcement formula. Rather, the reform of Article 475 of the Code of Civil Procedure, effective as of 1 March 2023, abolished the enforcement formula across all civil judgments.

§ 15 Once the general requirement disappeared from civil procedure, the need for a **special derogating rule** in administrative proceedings vanished alongside it. Nor does the textual reference to paragraph 1 of Article 115 find any basis in the current provision, which now consists solely of paragraph 2. Consequently, the **operative grant of relief** remains legally sound, notwithstanding an **anachronistic reasoning** relative to the 2022 reform.

ENFORCEMENT PROFILE	REGIME PRIOR TO LEGISLATIVE DECREE NO. 149/2022	REGIME IN FORCE FROM 1 MARCH 2023
Civil execution (Art. 475 CPC)	Issuance in enforceable form for titles under Art. 474 CPC.	Copy certified as conforming to the original, without formula.
Compliance proceedings (Art. 115 APC)	Express derogation in paragraph 3 solely for administrative proceedings.	Paragraphs 1 and 3 repealed; only paragraph 2 remains in force.

§ 16 In this perspective, compliance proceedings without an enforcement formula no longer represent a sectoral exception to ordinary civil procedure. Rather, they express the coherent extension of a **uniform enforceable title** requiring solely attestation of conformity with the original.

3.2 — Certified True Copies, Writ of Payment Costs, and Coercive Penalties

§ 17 Coordination with the amended Article 475 of the Code of Civil Procedure also affects the interpretation of Article 136(2-ter) of the Administrative Procedure Code and the recoverability of pre-litigation expenses. Regional Administrative Court (*TAR*) Campania, Naples, judgment no. 4223/2026[4] drew a sharp line between acts functional to administrative compliance and those proper to civil forced execution. Costs incurred for **copying, registration, and service** of the title remain recoverable. By contrast, **writ of payment (*precetto*) expenses** and costs of prior unsuccessful civil seizures are excluded. Because Article 115(2) offers two alternative tracks, resort to a preliminary civil demand rests at the creditor's own expense.

§ 18 A further divergence concerns the **indirect coercive penalties** (*astreintes*) provided under Article 114(4)(e) of the Administrative Procedure Code, applicable "unless this is manifestly inequitable". The judgment under review orders payment and appoints the substitute commissioner without imposing additional pecuniary penalties. Conversely, *TAR* Campania no. 4223/2026 awards a **coercive delay penalty** equal to statutory interest running from notice of the enforcement order. As already examined in this journal regarding coercive delay penalties in compliance proceedings[D1], the coercive function of the measure requires assessing the proportionality of cumulation. Courts must indeed balance accrued interest against the promptness of the commissioner's intervention.

FORMULA-FREE TITLE AND BOUNDARIES OF COST RECOVERY
Following the repeal of Article 115(3) of the Administrative Procedure Code, a certified true copy of the title suffices in both civil execution and administrative compliance proceedings, yet expenses for a prior civil writ of payment remain non-recoverable in the subsequent administrative forum.

04. ADMINISTRATIVE DEFAULT, BURDEN OF PROOF, AND OPERATIONAL SCOPE

§ 19 At paragraph 8 of Council of State judgment no. 7150/2026[1], the Court addresses the **non-appearance of the debtor local authority**. While acknowledging that default carries no direct evidentiary weight, the Panel rules out that procedural inertia relieves the public debtor. In support of this conclusion, it expressly cites Italian Supreme Court of Cassation, Civil Division, Order of 23 January 2018, no. 1584[5]. Pursuant to Article 2697 of the Civil Code, the creditor must prove the "facts that constitute the basis" of the right. Conversely, whoever pleads "that the right has been modified or extinguished must prove the facts on which the defence is founded".

§ 20 Transposing this civil-law rule into administrative compliance clarifies the line between **allegation and exonerating proof**. Counsel with a direct cost entitlement discharges the initial burden by filing a certified copy of the judgment, proof of service, and the certificate of *res judicata*. The Municipality's default does not constitute tacit admission of the debt, yet leaves the **extinguishing fact of payment** entirely unproven. As a matter of ***ratio decidendi***, that evidentiary gap sustains the order to comply within sixty days. The appointment of the Prefect of Cosenza as **substitute commissioner (*commissario ad acta*)** completes judicial relief, whereas the passing reference to the modest size of the sums remains a non-determinative remark.

§ 21 A rigorous **distinguishing** analysis must nonetheless separate adjacent scenarios excluded from any evidentiary automatism. The administration's silence never cures genetic defects in the preliminary service sequence. As held by *TAR* Lazio no. 22076/2025[2], even a purely formal appearance does not bar the court from raising *ex officio* inadmissibility for service sent to an unlisted electronic address. Nor does any inference of non-compliance operate where the public body produces **partial payment warrants** or documented objections. The same boundary applies to judgments lacking the **certificate of finality** mandated by Article 114(2) of the Administrative Procedure Code.

§ 22 On the practical plane, **operational guidance for counsel** calls for meticulous verification of the file prior to lodging the petition. Counsel must obtain a **certified true copy** under the unified enforcement framework articulated by Council of State no. 5716/2025[3]. Completion of service at the authority's actual headquarters must then be fully documented. Producing certified electronic mail re-

ceipts drawn from statutory public registries neutralizes any objection regarding the 120-day waiting period. Finally, an itemized breakdown of the amounts facilitates a direct payment order, subject to the **exclusion of writ of payment costs** affirmed by *TAR* Campania no. 4223/2026[4].

> ***Administrative default does not prove non-performance, yet it leaves the debtor's burden of proving payment unsatisfied once the enforceable title and valid service are established.***

§ 23 Comparison across the decisions reveals a functional convergence around certainty of the enforceable title and traceability of the statutory waiting period. Protection of pecuniary creditors dispenses with obsolete formalities such as the enforcement formula, yet remains conditioned upon the **documentary integrity of the procedural sequence**.

DECISION / COURT	STANCE	CORE PRINCIPLE
Council of State, no. 7150/2026	**Aligned**	Grants compliance without enforcement formula or prior notice; default does not exempt the authority from proving payment.
Council of State, no. 5716/2025	**Systemic**	Links the repeal of Art. 115(3) APC to the uniform abolition of the enforcement formula under Art. 475 CPC.
TAR Lazio, Rome, no. 22076/2025	**Restrictive**	Excludes commencement of the 120-day period if electronic service omits public registries or targets the State Attorney.
TAR Campania, Naples, no. 4223/2026	**Aligned**	Sets coercive penalties equal to statutory interest and denies recovery of civil writ of payment costs.
Supreme Court of Cassation, Civil Div., no. 1584/2018	**Aligned**	Confirms that procedurally neutral default does not relieve the debtor from proving performance under Art. 2697 Civil Code.

05. CONCLUDING REMARKS AND SYSTEMIC ASSESSMENT

§ 24 Council of State judgment no. 7150/2026[1] consolidates a clear balance between formal simplification and procedural rigour in the enforcement sequence. **Compliance proceedings without an enforcement formula** today rest stably upon the **certified true copy** established by the unified regime of Article 475 of the Code of Civil Procedure, well beyond the reasoning lapse citing repealed paragraph 3 of Article 115 of the Administrative Procedure Code. Likewise, any requirement of **prior formal notice** remains definitively excluded under Article 114(1) of the Administrative Procedure Code.

§ 25 With respect to safeguards protecting public authorities, procedural speed does not dilute the substantive prerequisites of notice and evidentiary proof. The **120-day waiting period** shields the public accounting phase only where proper service has been executed at the authority's actual headquarters. Once that temporal and documentary threshold is satisfied, default affords the public debtor no shield against its burden to prove **completed payment**.

AUTHORITIES & REFERENCES

Table of Authorities & References Cited

I. STATUTORY PROVISIONS

Legislative Decree of 2 July 2010, no. 104 (Administrative Procedure Code), Articles 114, 115, and 136 – Rules on compliance proceedings, enforceability of pecuniary orders, and repeal of Article 115(1) and (3)

Law Decree of 31 December 1996, no. 669, converted into Law of 28 February 1997, no. 30, Article 14 – 120-day statutory waiting period from service of an enforceable title upon public authorities

Italian Civil Code, Article 2697 – Allocation of the burden of proof regarding constitutive and extinguishing facts of obligations

Italian Code of Civil Procedure, Article 475 (as amended by Legislative Decree no. 149/2022) – Abolition of the enforcement formula and requirement of a certified true copy

II. CASE LAW CITED

[1] **Council of State (Consiglio di Stato), Judgment of 24 September 2026, no. 7150** OUTCOME: upheld within the limits stated in the reasoning, ordering compliance within sixty days and appointing a substitute commissioner. PARA.: §§ 7–8 (confirms that neither enforcement formula nor prior formal notice is required and holds that default does not relieve the public debtor from proving payment).

[2] **Regional Administrative Court (TAR) Lazio, Rome, Judgment of 3 December 2025, no. 22076** OUTCOME: declared inadmissible with costs offset. PARA.: §§ 5–10 (in compliance proceedings for a Labour Division judgment, excludes valid commencement of the 120-day waiting period where the title is served at an unlisted electronic address or upon the State Attorney's Office).

[3] **Council of State (Consiglio di Stato), Judgment no. 5716/2025** OUTCOME: upheld, ordering compliance within ninety days and appointing a substitute commissioner. PARA.: § 3 (clarifies that the repeal of Article 115(3) APC forms part of the uniform abolition of the enforcement formula under amended Article 475 CPC).

[4] **Regional Administrative Court (TAR) Campania, Naples, Judgment no. 4223/2026** OUTCOME: upheld, ordering payment within sixty days, setting a coercive delay penalty, and appointing a substitute commissioner. PARA.: reasoning on costs and astreintes (in compliance proceedings for a Labour Division judgment, awards coercive penalties equal to statutory interest and denies recovery of civil writ of payment expenses).

[5] **Italian Supreme Court of Cassation, Civil Division, Order of 23 January 2018, no. 1584** OUTCOME: upheld, quashed and remanded to the Tribunal of Rome. PARA.: §§ 10–13 (holds that the defendant's default, though procedurally neutral, results in failure to prove the extinguishing fact resting on the debtor under Article 2697 of the Civil Code).

III. LEGAL SCHOLARSHIP CITED

[D1] Metodo Giuridico, Penalità di mora nel giudizio di ottemperanza: limiti e iniquità [Coercive Delay Penalties in Compliance Proceedings: Limits and Inequity]. Analysis of the prerequisites for astreintes in pecuniary judgments under Article 114(4)(e) APC and the manifest inequity boundary

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