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<Commission>{PETI}Committee on Petitions</Commission>

<Date>{31/07/2023}31.7.2023</Date>

<TitreType>NOTICE TO MEMBERS</TitreType>

Subject: <TITRE>Petition No 1090/2022 by N.A.S. (Italian), on behalf of Ambiente È Vita, on the environmental compatibility of the municipal waste treatment plant to be built in Bari, Italy</TITRE>

1. Summary of petition

The petitioner points to alleged shortcomings on the part of the authorities responsible for verifying the environmental compatibility of the projected plant in Bari for the treatment and co-incineration of special waste from the biological treatment of municipal waste by NEWO SpA. He points out that the best available techniques (BAT) for the treatment of waste are set out in Commission Implementing Decision (EU) 2018/1147 published in the Official Journal of the European Union of 17.08.2018 requiring the competent authority to have verified compliance therewith by 17.08.2022, which it does not appear to have been done. Regarding transitional measures, Article 271 of Legislative Decree 52/06 explicitly states that, in the case of emissions that are carcinogenic, toxic to reproduction, mutagenic or of particularly high cumulative toxicity, authorisation should be subject to measures enabling emission levels to be measured should anomalies or breakdowns occur, or during other transitional periods, and establishing emission limit values for those periods expressed as annual mass flows. It also requires provision to be made for verification of the presence of such substances in the relevant blueprints and for the authorisation to specify accordingly transitional terms and conditions. The petitioner wonders whether the Monitoring and Verification Plan was drawn up by NEWO in accordance with the guidelines laid down by Regional Agency for the Protection of the Environment and Article 21(3) of Directive 75/2010 concerning the expiry of review deadlines. He also calls for verification of compliance with Article 14(1)(f) of Directive 2010/75/EU with regard to non-normal operating conditions, Article 6 of Directive 2008/98/EC on end-of-waste status and Regulation (EC) No 1907/2006 (Reach Regulation). Finally, he would also like to know what action the European Commission intends to take to encourage Italy to comply with its environmental, health and safety obligations under the current European directives that apply to NEWO SpA waste treatment plants.

2. Admissibility

Declared admissible on 27 April 2023. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 31 July 2023

The present petition concerns alleged shortcomings on the part of the authorities responsible for verifying the environmental compatibility of the projected plant in Bari for the treatment and co-incineration of waste originating from the biological treatment of municipal waste. The projected plant will be operated by the company NEWO SpA[[1]](#footnote-1).

The Commission understands that the waste will be treated by using a flameless process, which is described as emerging technique[[2]](#footnote-2) in the Best Available Techniques (BAT) Reference Document for Waste Incineration[[3]](#footnote-3).

Installations performing activities listed in the Industrial Emissions Directive (IED)[[4]](#footnote-4) are obliged to operate in accordance with permits based on the use of Best Available Techniques (BAT). BAT conclusions adopted by the Commission are the mandatory reference for competent authorities when issuing or reviewing permits. The BAT conclusions for waste treatment were published on 10 August 2018[[5]](#footnote-5) and apply since 10 August 2022. For (co)‑incineration of waste, BAT conclusions were published on 3 December 2019[[6]](#footnote-6) and will apply on 3 December 2023. In addition, Chapter IV of the IED provides minimum requirements for waste (co)-incineration.

(Q1) The petitioner wonders whether the Monitoring and Verification Plan (MVP) was drawn up by NEWO in accordance with the guidelines laid down by Regional Agency for the Protection of the Environment and Article 21(3) of the IED concerning the expiry of review deadlines. The MVP has been updated in May 2023. Article 24 of the IED obliges Member States to ensure to the public concerned effective opportunities to participate e.g. in cases of granting a permit for new installations or granting a permit for any substantial change. The Commission understands that the installation in Bari is not in operation yet and that the permit issued in 2018 is under revision. Therefore the Commission kindly invites the Petitioner to liaise with the responsible competent authorities in Puglia[[7]](#footnote-7) for questions on the content of the permit under revision.

(Q2) Verification of compliance with Article 14(1)(f) of the IED with regard to other than normal operating conditions. Article 14(1)(f) of the IED[[8]](#footnote-8) requires Member States to include in permits measures relating to other than normal operating conditions (OTNOC). The BAT conclusions for waste (co)-incineration plants also contain provisions on OTNOC[[9]](#footnote-9). The MVP from May 2023 in chapter 6.1.5.2.6 includes reference to both BATs (5 and 18) concerning OTNOC.

(Q3) Compatibility of the NEWO plant with Regulation 1907/2006 (Reach Regulation)

Registration obligations under the Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals Regulation[[10]](#footnote-10) apply to all manufacturers and importers of substances above 1 tonne / year and do not necessarily require additional testing. Based on the information provided, the Commission is not in the position to judge whether registration of the vitrified material and additional testing are required.

(Q4) Compatibility of the NEWO plant with Art. 6 of Directive 98/2008 on end of waste status.

The Waste Framework Directive[[11]](#footnote-11) (WFD), establishes provisions under which waste can cease to be waste, subject to conditions. There are no EU-wide end-of-waste criteria for glassy material from the thermal process described and therefore the Commission is not in the position to judge if the used material meets the criteria of Article 6 (on end of waste) of the WFD. Subject to the referred article, Member States may set criteria at national level or decide on a case-by-case basis. The Commission advises the Petitioner to liaise with the relevant competent authorities in Puglia[[12]](#footnote-12).

**Conclusion**

As the installation in Bari is not in operation yet and that the permit issued in 2018 is under revision the Commission invites the Petitioner to liaise with the responsible competent authorities in Pugliafor questions on the content of the revised permit.

1. This case was also a subject of written question: [Parliamentary question | NEWO waste‑processing and co‑incineration plant in Bari | E-003448/2022 | European Parliament (europa.eu)](https://www.europarl.europa.eu/doceo/document/E-9-2022-003448_EN.html). [↑](#footnote-ref-1)
2. ‘emerging technique’ is defined in IED Article 3(14) as a novel technique for an industrial activity that, if commercially developed, could provide either a higher general level of protection of the environment or at least the same level of protection of the environment and higher cost savings than existing best available techniques [↑](#footnote-ref-2)
3. Section 6.3 of the BREF ‘Flameless pressurized oxycombustion’. [↑](#footnote-ref-3)
4. Annex I of Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions, OJ L 334 17.12.2010. [↑](#footnote-ref-4)
5. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2018.208.01.0038.01.ENG&toc=OJ%3AL%3A2018%3A208%3ATOC>. [↑](#footnote-ref-5)
6. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2019.312.01.0055.01.ENG&toc=OJ%3AL%3A2019%3A312%3ATOC>. [↑](#footnote-ref-6)
7. <http://www.sit.puglia.it/>. [↑](#footnote-ref-7)
8. Article 14(1)(f)) ‘measures relating to conditions other than normal operating conditions such as start-up and shut-down operations, leaks, malfunctions, momentary stoppages and definitive cessation of operations’ [↑](#footnote-ref-8)
9. BAT 5 and BAT 18 of the WI BATC refer to the monitoring of emissions during OTNOC and implementation of a risk-based OTNOC management plan. [↑](#footnote-ref-9)
10. Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006

    concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), OJ L 396 30.12.2006., p.1. [↑](#footnote-ref-10)
11. Article 6 of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste, OJ L312 22.11.2008, p.3. [↑](#footnote-ref-11)
12. <http://www.sit.puglia.it/>. [↑](#footnote-ref-12)