



31.10.2022

## NOTICE TO MEMBERS

**Subject: Petition No 0432/2022 by L. G. (Italian), on behalf of Comitato Salvaguardia Pontevico, on the effects on the environment of the Pontevico foundry in Italy**

### 1. Summary of petition

The petitioner requests that an environmental impact assessment be conducted on the Pontevico foundry (BS – Italy), which is located in an already heavily-industrialised area that has been the subject of infringement proceedings (No 2014/2147 and No 2015/2043) against Italy for failure to fulfil the requirements laid down in Directive 2008/50/EC on air quality. The petitioner also calls for a check to be conducted on the effects on the health and quality of life of local residents.

### 2. Admissibility

Declared admissible on 22 July 2022. Information requested from Commission under Rule 227(6).

### 3. Commission reply, received on 31 October 2022

#### The Commission's observations

Firstly, it is relevant to recall that the responsibility for the choice as to whether specific projects should be authorised lies with the Member State authorities, who have to ensure compliance with EU legislation in the relevant development consent procedures.

Based on the available information<sup>1</sup>, it emerges that the development consent procedure for the

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<sup>1</sup> Including information available on the website of Region Lombardia, SILVIA (Sistema Informativo Lombardo per la Valutazione di Impatto Ambientale): <https://www.silvia.servizirl.it/silviaweb/#/result-archivio-generale>, procedure no. VIA0147-BS.

project referred to by the petitioner is ongoing. As part of that procedure, an Environmental Impact Assessment (EIA) under Directive 2011/92/EU<sup>2</sup> is underway. As part of the EIA procedure, the significant effects of the project on a number of factors, including human health and population, soil and air have to be identified, described and assessed. EIA reports must include, *inter alia*, a description of the measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment.

Moreover, based on the information available on the regional website referred to by the petitioner<sup>3</sup>, it appears that a permitting procedure under Directive 2010/75/EU (the Industrial Emissions Directive)<sup>4</sup> is foreseen by the Italian authorities.

This Directive lays down rules to prevent or, where that is not practicable, to reduce industrial emissions into air, water and land, in order to achieve a high level of environmental protection. The installations in its scope can only operate if they are in possession of a permit, and have to comply with the conditions set therein. The permit conditions are based on the Best Available Techniques (BAT) conclusions adopted by the Commission. Emission limit values must be set at a level that ensures pollutant emissions do not exceed the levels associated with the use of BAT. The relevant BAT conclusions for the concerned installation are the BAT conclusions for the non-ferrous metals industries (NFM)<sup>5</sup>. The petitioner could find more information on the process and the content of these BAT conclusions on the website of the Joint Research Centre (JRC)<sup>6</sup>.

The Commission has no reason to consider that the relevant provisions of the above-mentioned directives will not be complied with in this case.

As regards air pollution, the Commission is aware of the existing problems in the Lombardia region. The Commission has launched several infringement procedures against Italy over time in relation to this issue, including those referred to by the petitioner<sup>7</sup>. In the context of two of these procedures, Italy was condemned by the Court of Justice of the EU for breaching the air quality standards set under Directive 2008/50/EC<sup>8</sup> for particulate matter (PM10)<sup>9</sup> and nitrogen dioxide<sup>10</sup>. The Commission is currently assessing the measures taken by Italy to comply with the Court's rulings. However, it should be recalled that Directive 2008/50/EC requires Member States to achieve compliance with the limit values irrespective of the source of pollution. How to achieve this obligation of result, and which concrete measures to take to ensure EU air quality standards are respected, is left to the appreciation of the competent authorities in the Member State.

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<sup>2</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, OJ L 26, 28.1.2012, p. 1.

<sup>3</sup> Region Lombardia's website, cited.

<sup>4</sup> Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control), OJ L 334 17.12.2010, p. 17).

<sup>5</sup> Commission Implementing Decision (EU) 2016/1032 of 13 June 2016, OJ L 174, 30.6.2016, p. 32–106.

<sup>6</sup> <https://eippcb.jrc.ec.europa.eu/reference>

<sup>7</sup> Three infringement procedures are currently open against Italy relating to the breach of air quality standards set in EU law for nitrogen dioxide, particulate matter (PM10) and fine particulate matter (PM2.5), respectively.

<sup>8</sup> Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe, OJ L 152, 11.6.2008, p. 1.

<sup>9</sup> Case C-644/18.

<sup>10</sup> Case C-573/19.

### Conclusion

No breach of EU law can be ascertained in the situation referred to by the petitioner, who is invited to refer the matter to the national authorities.