



1.10.2024

NOTICE TO MEMBERS

Subject: Petition No 0225/2024 by Anna Ferreri (Italian) on alleged environmental pollution of the Venafro plain in Italy

1. Summary of petition

The petitioner raises serious concerns about the environmental situation in the Venafro basin in the Province of Isernia, where there are two main sources of concern: the HERAmbiente thermal energy plant and the Colacem S.p.a. cement works. She notes that the epidemiological study of July 2022, the report by Isernia's public prosecutor and the ISPRA report of December 2022 highlight serious problems, such as exceedances of PM10 limits and environmental contamination. These are attributed primarily to the two sources mentioned above, yet no national body has taken the steps needed to improve the situation. According to the petitioner, the Region has not suspended the operation of the plants or initiated the review procedure for the integrated environmental authorisation for either factory. Nor has it requested a health impact assessment. There have been no moves to revise the emission limits in accordance with EU legislation, or put in place any techniques to significantly reduce emissions. The Region has not carried out the requisite checks and inspections in full: neither the regular actions required by ARPA, nor effective environmental monitoring for dioxins, furans and PCBs. Similarly, the classification of slag and ash required by Regulation (EU) No 2017/997 has not been carried out. The petitioner also criticises the lack of action by local councils – who have not played a proactive or supervisory role – and by the Ministry of the Environment. She raises doubts as to compliance with Articles 8, 15, 16 and 17 of Directive 2010/75/EU, Article 6 of Directive 2004/35/EC and Regulation (EU) 2017/997. Finally, she calls on Parliament to verify whether the Molise Region has an updated cancer registry, in line with EU data regulations.

2. Admissibility

Declared admissible on 29 May 2024. Information requested from Commission under Rule

233(5).

3. Commission reply, received on 1 October 2024

The present petition concerns alleged shortcomings on the part of the authorities of the Molise Region - responsible for verifying the environmental compatibility of the plants (HERAmbiente waste-to-energy and Colacem S.p.A cement plant), concerning EU legal acts: Directive 2010/75/EU, Directive 2004/35/EC and Regulation 2017/997. The petition also refers to the air quality in the Venafro area.

Directive 2010/75/EU on industrial emissions¹

The waste incineration as well as cement plants mentioned in the Petition fall in the scope of Annex I of the Industrial Emissions Directive (IED)². They must hold a permit granted in compliance with the IED and the relevant Best Available Techniques conclusions³.

In case of Colacem S.p.A cement plant, the first permit for this installation from 2015 was updated several times, including in year 2024.

Concerning the HERAmbiente waste-to-energy plant, permit from 2015 is currently being updated.

The information publicly accessible does not allow the Commission to verify whether the Emission Limit Values for those two installations are in line with the relevant BAT Conclusions. Therefore the Commission will contact the Italian authorities to ascertain this.

Directive 2008/50/EC on ambient air quality and cleaner air for Europe⁴

The municipality of Venafro is part of air quality zone (ZON.IT1403). One monitoring station (SPO.IT1962A) exists in the outskirts of the municipality which monitors arsenic, benzene, benzo(a)pyrene, cadmium, lead, nickel, nitrogen dioxide and particulate matter (PM_{2.5}, and PM₁₀). According to the latest available reported data by the Italian authorities for the last three years (2020-2022), this air quality zone reported exceedances of the daily limit value for PM₁₀.

Given Italy's non-compliance with the air quality limit values in relation to PM₁₀, the Commission opened an infringement procedure against Italy for breach of Directive 2008/50/EC on ambient air quality and cleaner air for Europe.

On 10 November 2020, the Court of Justice of the EU delivered its judgment in Case

¹ OJ L 334, 17.12.2010, p. 17.

² 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. 17–119. Amended by Directive (EU) 2024/1785 of 24 April 2024 OJ L 1785 of 15.7.2024

³ Commission Implementing Decision (EU) 2019/2010 of 12 November 2019 establishing the best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for waste incineration, OJ L 312, 3.12.2019; Commission Implementing Decision (EU) 2013/163 of 26 March 2013 establishing the best available techniques (BAT) conclusions under Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions for the production of cement, lime and magnesium oxide, OJ L 100, 9.4.2013.

⁴ OJ L 152, 11.6.2008, p. 1–44

C-644/18, *Commission v Italy*.⁵ The Court declared that Italy had failed to comply with Art. 13 of, in conjunction with Annex XI to, the Directive for having systematically and persistently exceeded the limit values for PM₁₀ in several air quality zones and that, by failing to adopt as from 11 June 2010 appropriate measures to ensure compliance with the limit values for PM₁₀ in all those zones, Italy had failed to meet its obligations under Art. 23(1) of the Directive, on its own and in conjunction with Section A of Annex XV to that directive, and in particular the obligation laid down in the second subparagraph of Art. 23(1), to ensure that the air quality plans provide for appropriate measures to ensure that the period of exceedance of the limit values is kept as short as possible.

Since the Commission found that the breaches ascertained by the Court persist, on 13 March 2024 a letter of formal notice was issued to Italy pursuant to Article 260 TFEU.

The Commission continues to be in contact with the Italian authorities and follows closely the measures put in place by Italy or required to bring the exceedances of PM₁₀ to an end, as required by the judgment. This requires systemic action that should have broader effects also on the zones that are not included in these infringements, as is the case for the air quality zone in which Venafro is included.

The Commission expects that the measures taken by the Italian authorities to solve the infringements will extend beyond the scope of those procedures and ensure the full and effective implementation of the Ambient Air Quality Directives across Italy.

*Directive 2004/35/CE on environmental liability*⁶

The Environmental Liability Directive⁷ (ELD) requires the operators to remediate occurrences of environmental damage which respond to the Directive criteria and to prevent such damage from occurring in case of imminent threat thereof.

The implementation of the ELD lies primarily with the national authorities. The Commission is not aware of specific circumstances of the case described in the petition and cannot thus pronounce itself thereupon.

The ELD empowers specifically the interested or (likely to be) affected parties to require the competent national authorities to act. To this end, they have to submit to the authorities their observations with reasonable supporting evidence. In case the Directive criteria are met, the competent national authority has a duty to enforce the ELD. In case of failure to act, the interested or (likely to be) affected parties have also access to judicial remedies.

*Regulation 2017/997 on the new classification of slag and bottom ash produced by incineration plants*⁸

The Waste Framework Directive (WFD)⁹ is the key legislative document on waste at EU level and defines “hazardous waste” in Article 3(2) as ‘waste which displays one or more of the

⁵ [CURIA - List of results \(europa.eu\)](#)

⁶ OJ L 143, 30.4.2004, p. 56–75

⁷ Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage, OJ L 143, 30.4.2004, p. 56–75.

⁸ OJ L 150, 14.6.2017, p. 1–4

⁹ Directive 2008/98/EC on waste, as amended by Directive (EU) 2018/851, EUR-Lex - 02008L0098-20180705 - EN - EUR-Lex (europa.eu)

hazardous properties listed in Annex III’.

The properties of waste which render it hazardous have been adapted to scientific progress through Commission Regulation (EU) 1357/2014, applicable as of 1 June 2015, and Council Regulation (EU) 2017/997, applicable as of 5 July 2018. The latter amended Annex III by providing more detailed information on how to classify waste for environmental hazards. To be underlined that this Regulation does not concern slags only, but waste in general.

The implementation of EU legislation lies primarily with national authorities but it is to be noted that EU regulations are directly applicable in the Member States without transposition into national legislation. The Italian Decree 152/2006, which transposed the WFD into national legislation, was amended in 2020 to refer directly to Annex III of the WFD when it comes to waste hazardous characterisation. Member States should make sure that waste exhibiting properties qualifying for HP14 “Ecotoxic” is properly classified.

The Commission is not in possession of the details of how the waste concerned by the petition has been classified.

Cancer Registry

As announced under the Zero Pollution Action Plan¹⁰, the European Cancer Inequalities Registry (ECIR)¹¹ serves as a comprehensive tool integrating indicators on environmental risk factors for cancer and associated burden. These factors include particulate matter, occupational carcinogens, radon, indoor air pollution, and second-hand smoke. The ECIR's data underscores the significant role of environmental determinants in cancer incidence, reinforcing the need for targeted interventions at EU, national, and local levels to mitigate environmental pollution and address health disparities. Almost all the European population-based cancer registries are members of the European Network of Cancer Registries (ENCR)¹². The province of Isernia is included in the Cancer registry of Molise, which is however not yet part of the ENCR; therefore historical data from that registry is not yet available in the European Cancer Information System (ECIS)¹³.

Conclusion

In line with its policy approach¹⁴, the Commission prioritises its enforcement efforts on cases pointing to a systemic breach of EU law.

The Commission does not have at this stage elements pointing to such a systemic breach of the Industrial Emissions Directive in the case referred to by the petitioner. However, due to difficulties to analyse the available permits of the Colacem S.P.A and HERAmbiente installations, the Commission will contact the relevant authorities in Italy.

Generally, the primary responsibility for correctly implementing EU legislation lies with

¹⁰ https://environment.ec.europa.eu/strategy/zero-pollution-action-plan_en

¹¹ <https://cancer-inequalities.jrc.ec.europa.eu/>

¹² <https://www.enrcr.eu/>

¹³ <https://ecis.jrc.ec.europa.eu/>, ECIS relies on data furnished by the members of ENCR.

¹⁴ Communication from the Commission – ‘EU law: Better results through better application’, (2017/C 18/02) - OJ C 18, 19.1.2017, p. 10/20.

relevant authorities in Italy¹⁵ and they must as well grant access to national review procedures.

Likewise, national courts are best placed for applying EU law effectively in cases of an individual nature, as well as for providing specific means of redress or taking provisional measures if necessary.

On its side, the European Commission, as guardian of the Treaties, makes sure that EU rules are correctly transposed at national level, regularly evaluates the implementation by Member States of EU legislation, and takes action in cases giving rise to any issue of wider principle, indicating the existence of a general unlawful practice or a systemic failure to comply with EU law.

¹⁵ <https://www.regione.molise.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/5>