



8.10.2024

NOTICE TO MEMBERS

Subject: Petition No 0193/2024 by Marco Maria Fumagalli (Italian) on the Monza Sant’Alessandro exit on the A52 Milan northern bypass in Italy

1. Summary of petition

The petitioner raises concerns about the correct identification and management of water protection areas in Lombardy. In particular, the petitioner is dissatisfied with the upgrade works on the Monza Sant’Alessandro exit on the A52 Milan northern bypass – which is planned as part of the related and contextual works for the 2026 Olympics and to be completed within 24 months – as it would be taking place just 15 metres away from a drinking water well on Via Gentili in Monza, which appears to be in a protection area. The petitioner believes that EU water legislation should apply in this scenario, specifically Directive 2000/60/EC, which requires Member States to ensure the protection of water bodies in order to avoid deterioration of their quality, and Directive 2020/2184, which requires Member States to take appropriate risk management measures in relation to water quality. However, the petitioner believes that these EU provisions were reproduced in Italy and Lombardy in a summary fashion poorly adapted to risk prevention requirements. In addition, the petitioner is critical about the lack of concrete action by the Lombardy Region to properly identify and manage water protection areas. In light of these points, the petitioner asks the EU institutions to assess the application of EU legislation.

2. Admissibility

Declared admissible on 22 May 2024. Information requested from Commission under Rule 233(5).

3. Commission reply, received on 8 October 2024

The category “Construction of motorways and express roads” - which seems to apply to the project at stake - falls within Annex I to the Environmental Impact Assessment (EIA)

Directive¹ (point 7.b). This type of projects must undergo, prior to their authorisation, an EIA procedure in accordance with Article 4, paragraph 1 of the EIA Directive. Under Article 4 paragraph 1 of the Directive, any project falling within Annex I must be subject to an EIA procedure in accordance with Articles 5 to 10.

The quality of drinking water within the EU is regulated by the recast Drinking Water Directive (DWD).² Member States must take the measures necessary to ensure that the water intended for human consumption is wholesome and clean, and that drinking water meets the parametric values at the point of compliance (e.g. the household tap) for the parameters listed in the annexes of the recast DWD. In addition, the recast DWD requires that Member States ensure that a risk assessment of the catchment area of a water body used for the abstraction of drinking water is carried out for the first time by July 2027 (Article 8 of the recast DWD). Where a risk is identified in the assessment, Member States must ensure that risk management measures including preventive measures are taken to limit pollution at source. By July 2027, Member States must establish data sets including information on the risk assessment and risk management of catchment areas for abstraction points. The Commission must have access to these data sets.

As regards the Water Framework Directive (WFD)³, in line with its Article 4(1) Member States had to ensure, by 21 December 2015, compliance of all water bodies with a set of environmental objectives, including that of securing that all surface water bodies achieve good ecological status or potential and good chemical status and that groundwater bodies achieve a good chemical and quantitative status and the status of all water bodies is not deteriorated. Under certain conditions, Member States may justify, for a given water body, a postponement, up to 2027, of the deadline to achieve these objectives (Article 4(4) of the WFD) or the achievement of lower environmental objectives, provided that the criteria set by Article 4(5) are met.

In accordance with Article 7 of the WFD, for bodies used for the abstraction of drinking water, Member States shall ensure the necessary protection for the identified water bodies, with a view to avoid deterioration in their quality and thereby reduce the level of purification treatment required for the purpose of producing drinking water.

Where a new project could entail deterioration of good status or compromise the achievement of good status or potential of the water body or bodies it will affect, it can be authorised only if the conditions outlined in Article 4(7) of the WFD are met. This requires an assessment of potential impacts and a detailed justification in accordance with the conditions set out in Article 4(7) of the WFD as well as mitigation measures to minimise the impact.

Member States report progress on achieving the WFD objectives every six years by means of reporting their River Basin Management Plans (RBMPs), in line with Article 13 of the WFD.

The Commission monitors the progress in implementing the WFD within its on-going

¹ Directive 2014/52/EU amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (OJ L 124, 25.4.2014, p. 1–18).

² Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption (OJ L 435, 23.12.2020, p. 1–62).

³ Directive 2000/60/EU of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000).

assessment of the third RBMPs and second Flood Risk Management Plans (FRMPs), covering the years 2021- 2027, in particular as regards the reported water bodies' status, the justifications for possible exemptions, including those under Article 4(7) of the WFD, and the measures planned to bring all water bodies to good status by 2027.

Conclusions

The information provided in the petition does not provide evidence that the project will result in the deterioration of the status of one or more water bodies or prevent the achievement of good ecological status/potential of such bodies.

Without prejudice to the Commission's powers as guardian of the Treaties, the primary responsibility for correctly implementing EU legislation lies with the national competent authorities. The Commission therefore encourages the petitioner to investigate with the national authorities whether they have assessed the impacts of the project and its conformity with relevant EU legislation.

The Commission does not envisage to take further steps as regards the case subject to this petition.