

EUROPEAN PARLIAMENT - COMMITTEE ON PETITIONS

Meeting of January 22nd, 2013, petitions No. 483/2007 and 1147/2008

Text of the intervention of the representative of Greenaction Transnational, Roberto Giurastante:

Confirming the contents of the petition, it is important underlining the unchanged situation consisting in the violation of Community Laws on the matter, in particular:

1) Lack of the SEA as for the variations of both the Master Plan of the Port (PMP) of Trieste and the Urban Management Plan (UMP) of the Municipality: violation of Article 3, sub-paragraph 2, letter “a”, of Directive 2001/42/EC.

The project of Gas Natural is presented as a variation of both the Master Plan of the Port of Trieste and the Urban Management Plan of the Municipality. As for this, we observe that:

- subject to the E.I.A. as envisioned with Directive 85/337/EEC (see annex I, point 1, with reference to Article 4, sub-paragraph 1);
- Directive 2001/42/EC (Article 3, sub-paragraph 2, letter “a”) rules that plans and programs which define the framework for the authorization of the projects listed at Annex I of Directive 85/337/EEC must be subject to the S.E.A. without any derogation;
- both the variation of the PMP and the UMP of Trieste must be subject to the S.E.A. even in consideration of the fact that the derogation period to be exempted from that has expired on July 21st, 2006 under Article 13, sub-paragraph 3 of Directive 2001/42/EC.

2) Separate EIAs for two works belonging to the same project. Italian authorities admit a violation of Directive 85/337/EC.

The project of the regasification plant in the port of Trieste was split into two different projects with two separate EIAs. The first concerning the regasification terminal of Gas Natural and the second concerning the SNAM pipeline, which connects that to the national gas network. By doing so, the overall effects of the project were not taken into account, seriously decreasing its environmental impact. As for this, it is important considering that the pipeline connecting the terminal to the national gas network will be underwater and it would cut into two the Gulf of Trieste due to massive excavation works, and this would compromise the fragile marine ecosystem of the small basin, situated between three Countries (Italy, Slovenia, Croatia). The European Court of Justice has already expressed itself in accordance with its settled case law as for the impossibility to effectuate separate EIAs on works that are part of the same project. As for this, applies the judgment issued by the European Court of Justice of February 28th, 2008 in case number C-2/07 on the possibility to split the E.I.A. itself, eluding one only evaluation, as the Court established that on the only evaluation that *“Finally, the national court should be reminded that the objective of the legislation cannot be circumvented by the splitting of projects and that failure to take account of their cumulative effect must not mean in*

practice that they all escape the obligation to carry out an assessment when, taken together, they are likely to have significant effects on the environment within the meaning of Article 2(1) of Directive 85/337". Even the Soprintendente per i beni paesaggistici (superintendent of cultural goods) of Friuli Venezia Giulia did (letter dated July 3rd, 2008 Protocol No. 6573/11.6) raise the problem, writing to the competent General Directorate at its Ministry "that there are 2 separate E.I.A. procedures for the regasification plant and the pipeline, which contrasts with Community Law, as that does, on the contrary, establish that there must be one only E.I.A." as for the PMP of Trieste, he adds that "the necessary, preventive S.E.A. was not arranged". And, once again, with a note dated July 2nd, 2009 Protocol No. 5082/11.6: "any evaluation as for the realization of methane pipe-line should take into account the project of the infrastructure as a whole, therefore, it should also include the evaluation of the impact of the regasification terminal served by the methane pipe-line itself, in fulfillment of the procedure of the E.I.A., consisting in evaluating the impacts of a project as a whole".

3) Lack of the opinion of the inhabitants of the territory concerned. Violation of Article 13, paragraph 5 of Directive 96/82/EC.

The inhabitants of the territory concerned - both in Italy and Slovenia - could never effectively express themselves as for the dangers connected with the realization of the regasification terminal that is to be near other industrial plants at risk. Directive 96/82/EC was implemented with Legislative Decree No. 334 of August 17th, 1999, whose Article 23 does states that the local population can express itself on the matter. Follows the very Aarhus Conventions of June 25th, 1998, approved in the name of the Community with Council Decision n. 2005/370/EC of February 17th, 2005, on behalf of the European Commission, where it establishes the participation of the citizens to the decision (Article. 6). This obligation was confirmed once again in October 17th, 2005, with the following note, Protocol No. DSA-2005-0025861 sent from the Ministry of the Environment to the Ministry of Productive Activities where, referring to the project of Gas Natural, it is underlined that "*during the development of the project of a new industrial plant subject to Article 8 of Legislative Decree 334/99, **the inhabitants of the territory concerned, in accordance with Directive 96/82/EC and under Art 23 of the same Decree shall be put in condition to express its opinion, which can be expressed as part of the drafting of the planning instrument or the procedure of Environmental Impact Assessment***".

4) Air pollution. Violation of Directive 2008/50/EC.

Region Friuli Venezia Giulia is subject to infringement procedure No. 2008/2194 (Air quality: concentration of PM10 particles in the environment), brought forward by the European Union under Articles No. 258 and 260 of the Treaty on the Functioning of the European Union due to the misapplication of Directive 2008/50/EC for exceeding the limit of PM10 in the province of Trieste as well. Gas Natural's project of a regasification terminal would lead to an incensement of this form of pollution, going against the above mentioned Community laws and worsening a situation which is already subject to a Community infringement proceeding.

5) Absence of a suggestion for an alternative site. Violation of Directive 85/337/EEC.

Article 5, paragraph 2, of Directive 85/337/EEC establishes that, in fulfillment of previous paragraph 1, the information that the developer must provide, should include at least an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects. When it comes to the projects of the proposed regasification terminal, no alternative site was ever suggested. Follows the violation of the above-mentioned Community law.

6) Violation of Article 15 and Annex V, points 3 and 4, of Directive 2008/1/ EC.

The integrated environmental authorization (I.E.A.) requested by Gas Natural has been issued by Region Friuli Venezia Giulia, without making public the final project that had been presented in 2012 and, by doing so, they did exclude any consultation of the population, violating Directive 2008/1/EC (Article 15 of Annex V, points 3 and 4).

Article 15 of Directive 2008/1/EC states that Member States shall ensure that the public concerned is given early and effective opportunities to participate in the procedure for new installations.

Annex V, point 3 of Directive 2008/1/EC states that the public concerned shall be entitled to express comments and opinions to the competent authority before a decision is taken while following point 4 states that the results of the consultations held pursuant to this Annex must be taken into due account in the taking of a decision.

Also, the authorization issued by Region FVG is vitiated by a clamorous case of falsification of a public act, which has been denounced to the representatives of the Province of Trieste, the Municipality of Trieste and the *Azienda per i Servizi Sanitari* - Health office (**DOC. 2**).

7) Violation of Article 8 and 11.4 of Directive 96/82/EC - lack of the integrated safety study and as for the enforcement of external emergency plans of industrial plants at risk.

In the area where the regasification plant should be realized, there are 8 industrial plants at risk of major accident under Directive 96/82/EC but the integrated safety study of the area, envisioned under Community Law (Article 8 of Directive 96/82/EC) does not exist. Also, there is no testing of the external emergency plans of the industrial plants at risk (Article 11.4 of Directive 96/82/EC). This results in a violation of Directive 96/82/EC.

8) Under-evaluation of the risk of terroristic attacks and lack of the security measures needed to grant navigation in the Gulf of Trieste - violation of Directive 96/82/EC.

The project of Gas Natural does under-evaluate the risk of terroristic attacks by not providing actual answers as for the risks related to the presence of the regasification terminal near the oil terminal of the SIOT. The SIOT itself, guarantor of the strategic, transalpine oil pipeline, confirmed (**DOC. 3 reopening of the procedure of EIA by the Italian Ministry of the Environment**) the negative impact that the regasification terminal would have on its activities, and the incensement of terrorism-related risks. In

case of terroristic attack, the supply of oil to Austria, Germany and Czech Republic would be seriously compromised as well. The E.I.A. did not take into account the safety measures required to grant navigation in both the Gulf and the Port of Trieste, leading to a further violation of Directive 96/82/EC. The Port Authority of Trieste itself emphasized this aspect, as well as the lacks in Gas Natural's project, with a note to the Ministry of the Environment (**DOC. 3**), which caused the reopening to the E.I.A. procedure by the Italian Ministry of the Environment.

9) The European Commission freezes the investigations concerning petitions No. 483/2007, 1147/2008 and 1472/2009 about the projects of regasification plants in the Gulf of Trieste.

Anyways, we cannot but underline that it results that the European Commission has "frozen" the investigations concerning the three petitions concerning the projects of regasification plants in the Gulf of Trieste in order "to not interfere" with the dialogue between Italy and Slovenia. The "freezing" of the investigations concerning the projects of the gas terminals was revealed with a letter dated July 16th, 2010 (**DOC. 4**) and, despite the opposition of the appellants, it was confirmed with letter dated September 20th, 2010 (**DOC. 5**). But, as recalled by the appellants: *"the denounces under question do not regard a dispute between these two Countries, but severe violations of European laws that is resulting in a damage and a danger for the European citizens and environment on the border. Therefore, the Commission could not and should have not stop the investigations supported by the citizens and requested by the European Parliament, as it could not help the two governments to agree upon the reinforcement of the violations denounced.*

10) Legal status of the international Free Port of Trieste: inapplicability of European and Italian law.

The project of the regasification plant of Gas Natural was subject to authorization procedures under Italian laws, in fulfillment of Community law. But, as for this matter, it is impossible not underlining that the legal status of the Port of Trieste is established under the Treaty of Peace of 1947 as International Free Port, regulated with Annex VIII of the same Treaty, which grants to all Countries (so to the International Community) the right to use it, without restrictions or discriminations. Article 3 of Annex VIII of the Treaty of Peace establishes that: *"The establishment of special zones in the Free Port under the exclusive jurisdiction of any State is incompatible with the status of the Free Territory and of the Free Port."* Therefore, the Free Port of Trieste cannot be subject to Italian jurisdiction as that is expressly forbidden by the Treaty of Peace – in force – and that must be respected by Member States of the European Union and, consequently, by the European Union itself. As for this matter, see the answer of the European Commission on April 6th, 2005 (**DOC. 6**) which, as for the Free Port of Trieste, states that: *"Community law cannot, of course, change the obligations deriving from international agreements concerning Trieste"*.