



30.5.2018

## NOTICE TO MEMBERS

**Subject: Petition No 0364/2017 by Simon Baraldi (Italian) on the infringement of Directive 94/22/EC in Italy in relation to concessions for the prospection, exploration and production of hydrocarbons**

### 1. Summary of petition

The petitioner complains that Italy has breached European law regarding the conditions for granting and using authorisations for hydrocarbon prospection, exploration and production. Italian environmental law states that ‘licences that have already been issued shall be preserved for the duration of the life of the mine, in compliance with safety and environmental standards’. Thus the law enables companies, and all other holders of qualifying licences, to continue prospecting for, exploring for and producing liquid and gaseous hydrocarbons at sea even after concessions have expired. According to the petitioner, that practice entails a breach of the principles of freedom of establishment, non-discrimination and protection of competition. The petitioner therefore requests that a reprimand be sent with regard to respecting the free market and competition in Italy, as enshrined in EU legislation, and that, if the infringement persists, an infringement procedure be initiated against the Italian State.

### 2. Admissibility

Declared admissible on 11 October 2017. Information requested from Commission under Rule 216(6).

### 3. Commission reply, received on 30 May 2018

Under EU law, the authorizations mentioned by the petitioner are regulated by Directive 94/22/EC on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons<sup>1</sup>.

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<sup>1</sup> OJ L 164, 30.06.1994

According to Article 2 of Directive 94/22/EC (hereinafter: "the Directive"), Member States retain the right to determine the areas within their territory to be made available for the exercise of the activities of prospecting, exploring for and producing hydrocarbons.

All the information relating to the authorisation (type of authorisation, geographical area, which may be applied for as a whole or in part, deadline envisaged for granting the authorisation, selection criteria, etc.) is published in the Official Journal of the European Union at least 90 days before the deadline for the submission of applications.

The objective and non-discriminatory criteria for granting authorisations are laid down in Article 5 of the Directive. According to Article 4 (b) of the Directive, "Member States shall take the necessary measures to ensure that the duration of an authorisation does not exceed the period necessary to carry out the activities for which the authorisation is granted. However the competent authorities may prolong the authorisation where the stipulated duration is insufficient to complete the activity in question and where the activity has been performed in accordance with the authorisation".

In 2015, the petitioner sent a complaint on this issue to the Commission. The issue raised by the petitioner was also the subject of several Parliamentary questions such as P-003181-16<sup>1</sup>, P-003197-16<sup>2</sup> and P-002962-16<sup>3</sup> by which the Commission was asked whether it intended to open an infringement procedure against Italy or "at the very least, to invite the Italian Government to modify the provision as a matter of urgency". The Commission answered as follows:

"The Commission cannot identify at this stage a potential breach of the EU environmental law since the decision, taken by law, to allow the extension of authorisations to extract hydrocarbons within 12 nautical miles of the Italian coast 'for the duration of the useful life of the oil field', falls under the exclusive competence of the national authorities", and

"Furthermore, in view of the limited gas and oil production in Italy, such legislative measure is unlikely to have any appreciable impact on competition in the international markets for gas and oil. Therefore, the Commission cannot identify, at this stage, a potential infringement of the EU competition rules".

Having assessed the elements brought by the petitioner, there are no grounds to deviate from the above conclusion. In particular, the petitioner does not substantiate his claims on the alleged violation of the principles of freedom of establishment, non-discrimination and protection of competition.

Incidentally, it can also be noted that:

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<sup>1</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+P-2016-003181+0+DOC+XML+V0//EN>

<sup>2</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+P-2016-003197+0+DOC+XML+V0//EN>

<sup>3</sup> <http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=P-2016-002962&language=EN>

- i. The controversial provisions were the subject of a specific referendum after the necessary signatures were collected, but the outcome of the vote, which took place on 17 April 2016, failed to meet the quorum requested by Italian law;
- ii. Some provisions of the Italian law were challenged before the Italian Constitutional Court by several Regions, and one of them was successful by reason of the specific features of the Venice Lagoon where offshore drilling might affect the integrity of such Lagoon and is therefore forbidden<sup>1</sup>;
- iii. The National Energy Strategy of 2013 has been replaced by the new National Energy Strategy adopted by Decree of 10 November 2017<sup>2</sup>. Public consultation on the new strategy was launched on 12 June 2017 and lasted 3 months. Its main feature is the increased share of renewable energies in line with the "decarbonisation" targets of the Paris agreement<sup>3</sup>.

## Conclusion

The Commission refers to its letter sent to the petitioner in the context of the petitioner's complaint and the answer given to Parliamentary question P-002962-16<sup>4</sup>. It confirms that it cannot identify at this stage any potential breach of EU law.

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<sup>1</sup> [http://ptrc.regione.veneto.it/web/guest/comunicati-stampa/dettaglio-comunicati?\\_spp\\_detailId=3128246](http://ptrc.regione.veneto.it/web/guest/comunicati-stampa/dettaglio-comunicati?_spp_detailId=3128246)

<sup>2</sup>

[http://www.sviluppoeconomico.gov.it/images/stories/documenti/BROCHURE\\_ENG\\_SEN.PDF](http://www.sviluppoeconomico.gov.it/images/stories/documenti/BROCHURE_ENG_SEN.PDF)

<sup>3</sup> [https://ec.europa.eu/clima/policies/international/negotiations/paris\\_en](https://ec.europa.eu/clima/policies/international/negotiations/paris_en)

<sup>4</sup> <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=P-2016-002962&language=EN>