

EUROPEAN PARLIAMENT

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Committee on Petitions

25.09.2009

NOTICE TO MEMBERS

Petition 949/2003 by Alberto Perino (Italian), on behalf of the ‘Habitat’ association, on opposing the high-speed rail link between Turin and Lyon

Petition 523/2004 by Darjana Ronconi (Italian) and 1 co-signatory on the projected Turin-Lyon rail link

Petition 198/2005 by Marco Tomalino (Italian), on behalf of *Coordinamento sanitario Valle di Susa*, on the health risks association with the construction of the Turin-Lione high-speed rail link

1. Summary of petition 949/2003

The petitioner, acting on behalf of a number of environmental, agricultural and municipal associations, is seeking action by the European Parliament (Committee on Transport) and the Commission in initiating a prior assessment of all environmental, technical, social and economic problems arising from the projected high-speed rail link between Turin and Lyon, involving in particular a rail tunnel (54 kms long) under the Moncenisio (alpine crossing between Italy and France). He sets out a number of arguments against the construction of the projected rail tunnel: hydrogeological risks, aggregates containing uranium and asbestos, firedamp, thermal impact, the danger to valuable farmland and densely populated areas, unfavourable cost-benefit analyses and widespread popular opposition among those affected. He points out that the Union has already funded project feasibility studies (EUR 150 million) without obtaining the hoped-for results, while the relevant reports and technical surveys drawn up by French experts are unfavourable. The petitioner therefore calls for a halt to funding for further risky and uneconomical rail links and instead for measures to improve existing and under-utilised links such as the Fréjus crossing; he urges that the route be reviewed, that the most expensive options with the greatest environmental and social impact be eliminated and that geological problems arising from tunnel be considered ‘upstream’ and that environmental impact surveys and international tendering procedures be completed in accordance with Community legislation.

Summary of petition 523/2004

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The petitioner opposes the projected high-speed Lyon-Turin-Milan (TAV/TAC) rail link involving a further tunnel through the Alps, his objections being based on financial and environmental reasons, pointing out that strong protests by local residents (3000 signatories) have been ignored. In particular, the requisite distance between residences and the future railway line is not being respected (the current project apparently envisages 20 - 30 m only while in France the minimum distance from the TGV high-speed track is 150 m. This could cause serious accidents and have harmful environmental effects. Furthermore, the petitioner refers to large quantities of surface asbestos at the original site in the lower Susa valley and radioactive materials in the upper Susa valley.

The petitioners are therefore seeking the intervention of the European Parliament and Commission which, in response to another complaint (of 12 April 2004) indicated that no authorisation had been issued for the project under Directive 85/337/EEC.

Summary of petition 198/2005

On behalf of a 100-member doctors' association the petitioner has raised the alert concerning the risks which the construction of the new high-speed and high-capacity rail link between Turin and Lione will have on the health of the people living in the lower Susa valley and the north-western part of Turin. He draws attention to a dual risk of pollution in the area from asbestos and uranium, both of which occur naturally. As regards asbestos (which is known to have lethal effects when it is dispersed in the air), its insidious presence in this particular case has been confirmed by means of a recent study carried out by the University of Siena into the geology of the Susa valley. In this connection it should be noted that the high-speed rail link project does not include a health-protection plan applicable even when material is being extracted, transported and stored. As for uranium, a number of deposits were identified long ago in the border massif which is due to be pierced by the main tunnel through which the new railway will pass. Hence the signatories are asking whether the project complies with the rules on environmental-impact assessment: it ignores the health risks stemming from the absorption into the air of sizeable asbestos and uranium particles and does not therefore take into account the very high cost of reducing the effects of pollution in a valley and a huge urban area.

2. Admissibility

Declared admissible on 23 March 2004 (949/2003), 26 November 2004 (523/2004), 11 July 2005 (198/2005). Information requested from Commission under Rule 175(4).

3. Commission reply for 949/2003, received on 23 March 2004

- a. 'The Community is responsible for the identification of the infrastructure belonging to the Trans-European Network (TEN) and for the setting of priorities of action in this field. The Community guidelines for TEN-T have identified the Lyon-Torino axis (which is part of the Priority Project n° 6 Lyon-Torino-Milano-Venezia-Trieste) as a priority project. These Community guidelines were adopted following the codecision process (**e.g. by the Council and the European Parliament**) in 1996. The new guidelines (which are still under adoption process) have confirmed the project as a priority. The first reading in the EP in July 2002, confirmed the Lyon-Torino as a Priority Project in the field of TENs.

However, it must be recalled that project implementation remains a strict competence of the Member States. All aspects relating to the life cycle of an infrastructure project (design – building permits – construction etc...) are managed by the Member States or the project developer to which the project has been conceded.

b. Contrary to what is said in the document presented by the petitioner, the Mont Cenis line (connecting Chambéry to Torino) is not scarcely used. It is actually one of the TEN-T lines with the largest number of international freight trains per day. Despite this fact, it is true that during the past decade traffic trends have been below forecasts. The reasons for this situation are threefold:

- i. the market share of freight rail in the Union has severely declined during the past decades, due to very low performances of the rail operators.
- ii. the line was built between 1855 and 1870 and its characteristics are now obsolete (high gradients, limited radius curves, old electrification system, ...). In addition, due to these specific characteristics, operating costs are high, in particular due to the necessity to use at least 2 or, for the heaviest trains, 3 locomotives.
- iii. it is true that some spare capacity is still available on the line – however, due to the above-mentioned constraints, it is not possible to implement a high quality rail service which could compete in terms of travel time, efficiency and timing reliability with road transport. In addition, the line is currently subject to upgrading works which aim to improve the loading gauge (to B+) and to improve the safety. These works will permit more combined transport trains to use the line and to develop a pilot project of “rolling motorway”. It will thus fill the gap between now and the entering into operation of the new line, by 2020.

These works have led to a significant reduction of the capacity of the line as, in order to upgrade the gauge of the Mont Cenis tunnel, only one track can be made available during the work phase. This situation will remain the same until the end of 2006 at least.

c. North-South corridors (linking Italy to northern Europe via Switzerland or Austria) together represent a significant volume of traffic. However, at the present time, as explained above, the line with the highest traffic volume (for freight) remains the Frejus. The dramatic accident that occurred in the Mont Blanc tunnel in March 1999 – leading to its closure for more than two years - has demonstrated the extreme vulnerability of Italy which has mainly based the trade with its neighbouring countries on road haulage. The Lyon-Torino section is part of one of the major corridors connecting Central and Eastern Europe (in broad terms, not only limited to the new Member States) and the Western Europe (France – Iberian peninsula – British Islands). If the foreseen traffic growth only benefits to road haulage, the consequences for the inhabitants of these areas and in particular the Alpine valleys will be heavy in terms of environment and safety hazards.

The necessity to reduce the imbalance between road and rail in particular – which was pointed out in the 2001 transport policy White Paper - has clearly identified the need of building new rail connections (among them the Lyon-Torino section) to improve rail competitiveness. The new line will allow the implementation of a “rolling

motorway” – likely based on the “Eurotunnel” model - from the area Lyon to the suburbs of Milano, which aim is to reduce the pressure of heavy road traffic on the Alpine tunnels of Mont Blanc and Fréjus.

- d. According to the information provided by the MS to the Commission, local authorities have been consulted for the selection of the alignment of the line in Italy. This process has led to some modifications with respect to the initial design.
- e. As indicated above – the Community is responsible for the identification of the TEN priorities. The choice of the line alignment or technical options remains the strict competence of the Member States concerned.
- f. The situation of other projects mentioned by the petitioner is not well known to the Commission. It must be recalled that the Community environmental legislation strictly applies to any project. If a potential infringement to this legislation could be demonstrated, appropriate measures can be taken at Community level to prevent such a situation.
- g. The studies mentioned by the petitioner – in particular those relating to environment - are currently carried out by the project developer in the framework of its work programme 2001-2006.
- h. The Community is currently financing studies which – *inter alia* - have to provide by the end of 2006 a very clear framework for the construction of this new infrastructure including:
 - technical options for the construction of the tunnel;
 - environment protection and mitigation measures;
 - financial plan and legal options for possible involvement of private bodies through a Public-Private-Partnership.

In addition, the French government – during the last CIADT (Comité Interministériel d’Aménagement et de Développement du Territoire) of 18 December 2003 – decided to keep the project among its main priorities, and to ensure a proper financing of the study phase until end of 2006. This position is contrary to what was expressed in the “audit on transport infrastructure” carried out by the French Ministries of Economy and Transport and that only made a partial – and short term - assessment of the infrastructure needs in the western Alps.

- i. As explained at point 6 above, the Community environmental legislation strictly applies to the project without exception.

In particular, Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (EIA Directive) as amended by Directive 97/11/EC provides that Member States must ensure that, before development consent is given, projects likely to have significant effects on the environment by virtue, *inter alia*, of their nature, size or location are made subject to an assessment of the environmental effects. These projects are defined in Article 4 which refers to Annexes I and II of the Directive.

The EIA process must also include consultations with the public and with competent authorities responsible for the environment. The results of these consultations and of the impact assessment must be taken into consideration in the development consent procedure. Article 7 of the Directive sets out a procedure for projects which are likely to have significant effects on the environment in another Member State. Essentially this gives the affected Member State (and the public in that state) the right to participate in the EIA which is being carried out. It is for the Member States concerned to determine the precise way of implementing these arrangements.

It appears that many of the concerns expressed by the petitioners should be addressed in accordance with the EIA Directive before a decision is taken whether to grant development consent. If EIAs did not include all the steps required by the Directive, there would appear to be a *prima facie* breach which the Commission would investigate with the Member State concerned. On the basis of the information provided by the petitioners, it is not possible to identify a breach of the EIA Directive in this specific case. If the petitioners can provide detailed information enabling the Commission to assess these issues in relation to the above-mentioned Directives, the Commission will then be able to investigate the matter.

- j. As regards the petitioner's concerns about noise, the environmental noise directive 2002/49/EC (OJ L 189, 18.7.2002) requires competent authorities in Member States to establish strategic noise maps, on the basis of common indicators, to inform the public about noise exposure and its effects, and to draw up action plans to address noise issues in the main agglomerations and in the vicinity of the major transport infrastructures, including railways. For major railways (more than 60 000 train passages per year), the first maps and action plans will have to be established respectively by 2007 and 2008. While the directive does not set harmonised EU-wide limit values for exposure to environmental noise, it foresees that neighbouring Member States shall cooperate on the action plans for border regions

4. Commission reply, received on 22 June 2005

The Commission has examined the further documents forwarded by Mr Perino following the meeting of the Committee which took place on 1/2 September 2004.

The documents raise questions about the scope of the environmental impact assessment required for the proposal, with reference to the so-called "Venaus" service tunnel, and the Commission has therefore written to the Italian authorities to seek further information which will enable it to decide whether the procedures have been correctly carried out.

The Commission will inform the Committee of the outcome of its enquiries as soon as it is able.

5. Commission reply, received on 3 February 2006

As stated in the previous communication to the Committee on Petitions of the European Parliament, the Commission decided to seek information from the Italian authorities on the

scope of the environmental impact assessment required for the project, with particular reference to the “Venaus” service Tunnel.

The Italian authorities replied to the Commission request on 5 August 2005 and 13 September 2005, providing information on the environmental impact assessment procedure followed (which forms the subject of Petition n° 949/2003) as well as on the issues raised in petitions 523/2004 and 198/2005 (in particular, with reference to the presence of asbestos in the excavated rocks).

The Italian replies of 5 August and 13 September 2005 are being assessed by the services of the Commission.

The Commission will inform the Committee of the outcome of its assessment as soon as it is able to.

6. Commission reply, received on 10 November 2006.

‘Further to the meeting of the Committee on Petitions of 25 January 2006, the Commission read the report of the Petitions Committee's fact-finding mission with interest. In this reply, it wishes to clarify certain parts of the report (paragraphs 1, 3, 4, 5, 6, 7 and 8 of the conclusions) and inform the Committee on Petitions of the latest developments in the case.

- 1. Since the hearing of the Committee on Petitions, some progress has already been made. Not only has the Susa valley 'observatory' (monitoring centre) been officially recognised (its establishment had been proposed in December 2005), but a first meeting of the key institutional figures involved was held on 4 July 2006. Moreover, the Italian Minister for Infrastructure, Mr di Pietro, at the behest of the Government, has withdrawn the part of the project in Italian territory included in the 'Legge Obiettivo' law, which has led to the opening of the so-called services conference (bringing together all parties interested in building the new line); its first meeting was held in early August 2006. The Italian authorities have now decided to carry out a full environmental impact assessment (EIA). This constitutes tangible progress by the Italian authorities, which are thus complying in full with the wishes of the Petitions Committee.
- 3, 4 and 5. The Turin-Lyon project is defined as 'TAV - Treno ad Alta Velocità' (high-speed train), also in the conclusions of the report. The Commission would point out that this project is a mixed line, with priority to be given to freight. This freight dimension gives the project its strong European added value, in that it will thus help fulfil – in such a sensitive area as the Alps – the objective of modal transfer (transferring lorries from road to rail) which the Commission laid down in its White Paper on the European transport policy, adopted in 2001. In response to a proposal by the inhabitants of the Susa valley, backed up by the Committee on Petitions, calling for 'greater transparency, by allowing European citizens to obtain objective information on this project', Mrs Loyola de Palacio called for an independent assessment (by independent experts) to be carried out of the studies concerning the health and environmental aspects and the decision to build a new line rather than update the old one.

As regards the more critical aspects, i.e. the risks from asbestos and radon, the experts examined the research and methodology used by LTF, comparing it *inter alia* with significant examples, such as the new Swiss railway tunnels. They reached the conclusion that the methodology used is pertinent and that the proposed measures will be able to ensure that health risks for workers and the local population are minimised. The experts nevertheless recommend that additional research be carried out to add weight to the assurances concerning health and the environment, on issues such as hydrogeology and the treatment of excavation residues.

With regard to the issue of whether to build a new line or update the current one, the experts added some important information to the debate. The existing line is an open-air line which passes through a number of villages. Most of the new line in the international section on the Italian side, will, on the contrary, run through tunnels and will therefore cause far fewer problems than the current line. 57 of the 61 km of the line will run through tunnels.

- 6. As far as this paragraph is concerned, the Commission would draw attention to the following three principles:
 - a. the priorities of the Trans-European Network (TEN) were adopted by the Council and European Parliament under the codecision procedure (Decision No 884/2004);
 - b. responsibility for the implementation of the projects, such as the choice of route and the technical options, lies with the Member States concerned in accordance with the subsidiarity principle;
 - c. clearly, these projects are subject to the Community laws on the environment and on public procurement, which must be complied with.

- 7. Concerning this point, the Commission underlines that, as a consequence of petition n° 949/2003, the Commission opened an own initiative case (2005/2157) and decided to seek information from the Italian authorities on the scope of the environmental impact assessment required for the project, with particular reference to the “Venaus” service Tunnel. The Italian authorities replied to the Commission request on 5 August 2005 and 13 September 2005, providing information on the environmental impact assessment (EIA) procedure followed (which forms the subject of petition n° 949/2003) as well as on the issues raised in petitions 523/2004 and 198/2005 (in particular, with reference to the presence of asbestos in the excavated rocks). The Italian replies of 5 August and 13 September 2005 have not been considered satisfactory, since they did not clarify whether the environmental impact of the Venaus tunnel had been assessed. Therefore on 18 November 2005 the Commission addressed a further request for information to the Italian authorities, requiring clarifications on the environmental impact assessment of the Venaus tunnel as well as on the measures which the Italian authorities intend to apply in order to ensure that leftover rock are dealt with in accordance with Community legislation on waste. The case was discussed at a meeting held in Rome on 27 January 2006 between the Italian authorities and the services of the Commission. At that meeting, the Italian authorities stated that the decision was taken by the Italian Government in

December 2005 to carry out a new environmental assessment, covering specifically the Venaus tunnel. No construction works for that tunnel would be started pending the results of the new study. This was confirmed by letter of 17 February 2006.

On 29 May 2006 the Commission addressed another letter to Italy underlying the scope of Directive 85/337/EEC as amended, and asking Italy to confirm that no works will be undertaken before a complete EIA pursuant to this Directive will have been carried out. Italy confirmed this by letter of 28 June 2006.

In addition, the Commission observes that the reasoned opinion issued against Italy in relation to infringement procedure n° 2002/5170 refers to the non conformity of Italian legislation and not the application of Italian legislation in individual cases. However, the Commission regularly uses its prerogatives under the EC Treaty in order to ensure that not only the Italian legislation transposing the Directive on Environmental Impact Assessment be brought in line with Community legislation, but also that this legislation is correctly applied in individual cases. This is precisely the object of case 2005/2157 relating to the Turin-Lyon project. As highlighted above, no breach of the EIA Directive can be identified at this stage.

Finally, the Commission underlines that Directive 85/337/EEC as amended does not require that a single transnational EIA procedure be carried out for assessing transnational projects, but that a procedure of exchange of information be followed in order to ensure that the processes of acquisition of information and consultation, as well as the eventual decision, which characterize the EIA procedure take the transboundary effects of the project into consideration.

A joint EIA could be carried out on a voluntary basis, and the Parties to the Espoo Convention on transboundary EIA have adopted guidance which outlines how this might be approached. The guidance for voluntary joint EIAs would be equally applicable in the context of the EIA Directive (which applies the Convention in the EU). The Commission stresses that the lack of a joint EIA does not constitute a breach of Community legislation.

- 8. The Commission would stress that it has always supplied the European Parliament, and in particular the Committee on Petitions, with all the information necessary to help them understand the project, also in view of the visit by members of the Petitions Committee to the Susa valley. The Commission has also replied diligently and in detail to all the questions Parliament has asked about the Turin-Lyon project; Vice-President Barrot came in person to reply to the questions put by the Petitions and Transport Committees, in a joint meeting on 20 June 2006.

Moreover, the conclusions state that 'insufficient publicity or no publicity at all was given – for example – to the appointment and mandate of acting Commissioner Loyola de Palacio'.

As provided for by Article 17(a) of the decision of the European Parliament and of the Council of 29 April 2004, which adopts the priority projects of the trans-European transport network (Decision No 884/2004/EC), the Commission consulted the European Parliament before appointing the European coordinators. The Vice-President

of the Commission, Mr Jacques Barrot, sent a letter to Mr Paolo Costa, Chairman of Parliament's Committee on Transport and Tourism, on 8 March 2005. Parliament's Committee on Transport and Tourism and Budgets Committee approved the appointment of the 6 European coordinators. This approval was confirmed by the Conference of Presidents of the European Parliament of 12 July 2005, resulting in a letter from the President of the European Parliament, Mr Josep Borrell Fontelles, on 20 July 2005. The Commission would point out that, as far as consultation of the European Parliament is concerned, the substance of the mission and the mandate of the European coordinators were described. In view of the above, the Commission believes that ample and transparent information was provided with regard to the appointment of the European coordinators.

Vice-President Barrot also held a press conference on 20 July 2005, in the presence of the European coordinators, on the topic of the appointment of the six European coordinators. This event was broadly covered by the Italian media, as confirmed by the numerous articles published in the national and regional press.

The European coordinator for Priority Project No 6, Mrs Loyola de Palacio, went to the Susa valley, at the invitation of the local authorities, on 24 November 2005. During her visit, Mrs de Palacio met all the local councillors, to whom she explained the importance of the project in view of the priorities of the European transport policy. On 24 April 2006 she again met the representatives of the local, regional and national authorities in Turin, to give them details of the results of the study carried out by experts on behalf of the Commission and thereby to respond to some of the key questions of the valley's inhabitants concerning the impact of the project.

Lastly, on 13 September 2006, the Commission adopted a communication in which it submitted the reports of the six European coordinators after a year's work; this included the report by Mrs de Palacio, which summarised the latest developments in the project.'

7. **Commission reply**, received on 25 September 2009 for petitions 949/2003, 523/2004, 198/2005 and 786/2007.

As of August 2009, works on the new Lyon-Turin railway connection are still in the preparatory phase. Work on construction of the tunnel itself have not yet begun either in France or in Italy; completion of the preparatory phase for engineering works requires some additional preparatory studies, including some further environmental impact assessment work. Four exploratory tunnels form part of the preparation of the construction phase of the tunnel - three on the French side and one on the Italian. Two of the three exploratory tunnels in France have been completed and the last one will be finished in the autumn of this year. Work on the Italian exploratory tunnel has not yet begun, pending formal agreement on the alignment on that side. It is likely that civil engineering works on the Italian exploratory tunnel could begin in the first half of 2010.