



29.6.2022

## NOTICE TO MEMBERS

**Subject: Petition No 0934/2021 by Giacomo Giujusa (Italian) on the Ischia Podetti landfill in Trento, Italy**

### 1. Summary of petition

The petitioner denounces the situation at the Ischia Podetti landfill site in Trento, where undifferentiated waste is being dumped without adequate treatment, in breach of EU directives and national regulations. The landfill is located in the floodplain area of the Adige River, adjacent to the Brennero motorway and practically within the city of Trento. The extreme proximity to the river and the mountains makes the site unsuitable for a landfill site as the area is subject to hydrogeological risk in the event of floods, landslides and avalanches, which could potentially trigger the dispersion of waste, with consequent pollution of surface water, soil and subsoil. It should be noted that Italian legislation, which supersedes that of the Autonomous Province of Trento, requires buildings and installations to be built a minimum distance of 150 metres from watercourses in order to prevent contamination of water resources and any obstruction of the free flow of rivers in the event of flooding. The construction of a new landfill in the unsuitable areas of the Ischia Podetti site appears to be an inappropriate and illogical choice that would prolong the state of risk to the environment.

The assessment of the criticalities present at the site associated with hydrogeological issues, accessibility of the area and excessive proximity to the built-up zone have been allegedly totally underestimated and the choices have been made solely on the basis of economic aspects without considering environmental and health costs if adverse events should occur. Aspects relating to the quality of the waste to be delivered to the Monclassico (municipality of Dimaro) and Imer landfills are also completely underestimated compared to the situation observed at the Trento landfill. In the last two years, sewage sludge production has increased dramatically and the costs of proper disposal have tripled compared to 2017. For the Provincial Waste Treatment Agency, this resulted in huge quantities of sludge (which is also dangerous for the surrounding environment), which is difficult for specialised companies to dispose of. And when this does

happen the prices are very high. Consequently, since 2018, on the basis of four provincial ordinances (the most recent on 28 June 2019), this material is disposed of at Ischia Podetti, in derogation of the rules requiring special treatment. The petitioner is therefore asking the Commission to verify the management procedures at the Ischia Podetti disposal plant in Trento in order to ensure that the necessary treatment of waste delivered to the landfill is guaranteed. He is also asking that the development of the securing and post-management phases of the landfill be monitored to prevent pollution of the environment and protect public health. Finally, he is requesting that checks be carried out to ensure that no further treatment and disposal plants are authorised and built on unsuitable sites.

## 2. Admissibility

Declared admissible on 17 January 2022. Information requested from Commission under Rule 227(6).

## 3. Commission reply, received on 2 June 2022

The choices regarding the location of waste treatment plants, including landfills, are the sole responsibility of the national authorities as long as EU law is respected.

As regards the characteristics of landfill sites, the Landfill Directive<sup>1</sup> contains specific requirements, *inter alia*, relating to the geological and hydrogeological conditions in the area<sup>2</sup>. Moreover, the Directive specifies that a landfill can be authorised only if the characteristics of the site indicate that the landfill does not pose a serious environmental risk<sup>3</sup>. Under Article 8 of the Landfill Directive, the competent authority shall not issue a landfill permit unless it is satisfied that the landfill project complies with all the requirements of the Directive including its annexes.

In addition, according to Article 6 of the Landfill Directive, only waste that has been subject to treatment is landfilled. In its ruling of 15 October 2014<sup>4</sup>, the Court of Justice of the European Union (CJEU) clarified that the pre-treatment includes an adequate selection of the different waste streams and the stabilisation of the organic fraction.

The Member States authorities are primarily responsible for compliance with these provisions.

Secondly, it must be noted that the petition relates to the possible poor application of EU law in an individual landfill. In such cases, compliance with EU law falls primarily with the national authorities (including the judiciary), who are better placed to assess individual situations such as the one referred to by the petitioner, and intervene if necessary.

As indicated in Commission Communication “EU Law: Better Results through Better Application”<sup>5</sup>, the Commission focuses its enforcement action on issues of wider principle, general practices, and systematic failures to comply with EU law, none of which emerge in the

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<sup>1</sup> Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste, *OJL 182, 16.7.1999, p. 1–19*.

<sup>2</sup> Landfill Directive, Annex I, 1.1(c).

<sup>3</sup> Landfill Directive, Annex I, 1.2.

<sup>4</sup> Ruling in case C-323/13 *European Commission v Italian Republic*.

<sup>5</sup> C(2016)8600.

case at stake.

In this context, it should be underlined that the Commission has already taken appropriate action as regards the management of waste in Italy.

For instance, as a result of an action brought by the Commission, Italy was condemned by the CJEU on 2 December 2014<sup>6</sup> for non-compliance with its previous ruling of 26 April 2007<sup>7</sup> due to the presence in Italy of nearly 200<sup>8</sup> non-compliant landfills. In its ruling, the Court condemned Italy to the payment of financial sanctions until full compliance is reached. Italy is currently paying the related sanctions on a six-monthly basis and the Commission continues to monitor the proper execution of the CJEU's judgment.

In a separate action, the Commission seized the CJEU in relation to the presence in Italy of a number of historical non-compliant landfills that had to close down or be brought in conformity by 16 July 2009. As a result, in its ruling of 21 March 2019<sup>9</sup>, the CJEU found that Italy had failed to meet its obligations under the Landfill Directive with regard to the closure and rehabilitation of 44 landfills. The Commission follows closely the actions taken by the Italian authorities to comply with the ruling. In the context of this case, on 6 April 2022 the Commission decided to issue a Letter of Formal Notice against Italy under Article 260 of the Treaty on the Functioning of the EU, as 12 of the 44 landfills covered by the March 2019 ruling are not yet compliant.

Other actions undertaken by the Commission concerning waste management in Italy include the infringement procedure launched in relation to waste management in Campania (for which Italy was condemned by the CJEU in case C-297/08 and subsequently in C-653/13, and is currently paying six-monthly sanctions until full compliance with the first Court ruling is reached) and the investigation concerning waste management in Lazio.

### Conclusion

The Commission is monitoring closely the issues related to the management of waste in Italy, with several ongoing actions in this respect. The Commission will continue to focus its action on horizontal and systemic cases such as the ones mentioned.

As regards the situation in the Ischia Podetti landfill, the petitioner is invited to refer the matter to the competent national authorities.

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<sup>6</sup> Ruling in case C-196/13 *European Commission v Italian Republic*.

<sup>7</sup> Ruling in case C-135/05 *European Commission v Italian Republic*.

<sup>8</sup> The ruling covered 198 landfills.

<sup>9</sup> Ruling in case C-498/17 *European Commission v Italian Republic*.