



13.2.2024

## NOTICE TO MEMBERS

**Subject: Petition No 0159/2023 by M.M. (Italian), on behalf of Italia Nostra Campania, on the construction of the Salerno to Reggio Calabria section of high-speed railway line**

### 1. Summary of petition

The petitioner complains about the alleged lack of clarity in the documents produced by the company RFI SpA, which is working on the Salerno to Reggio Calabria line and the Taranto-Metaponto-Potenza-Battipaglia line, contained in Mission 3: Infrastructures and investment in the PNRR-Next Generation Italia rail network. According to the petitioner, the company has omitted the Strategic Environmental Assessment - SEA, which is designed to ensure environmental considerations are factored into development plans and programmes (Directive 2001/42/EC) and which is provided for under the Consolidated Environmental Act (Legislative Decree 152/2006), and has only partially performed the Environmental Impact Assessment (EIA) and Assessment of Environmental Implications (AEI) on the 1b Battipaglia/Romagnano stretch of line. The EUR 2 million project was submitted by RFI SpA to the Italian Environmental Impact Assessment Committee in February 2022, with the aim of improving the route and reducing the journey time. The petitioner argues that the project must be shown not to be damaging to biodiversity in sites protected by the NATURA 2000 network, as the project is located in the Scandinavia-Mediterranean corridor of the TEN-T network. Eight protected sites in close vicinity to the project are cited, with the petitioner highlighting the Oasi del Sele-Persano site, as it enjoys special protection status (SPA) under the Natura 2000 network and meets the criteria of the European Birds Directives 74/409/EEC and 2009/147/EC. These and Italian national guidelines require RFI to verify that the appropriate level of assessment has been conducted. The petitioner also claims a lack of professional staff involved in the drafting of the impact survey on appropriate assessment conducted in November 2021, and the presence of errors in the VINCA survey relating to the protection of environmental matrices and prevention of the risk of environmental damage. The petitioner asserts that the competent national authorities should only approve the plan

once a survey has been conducted by competent persons and once it has been established with certainty that the plan is not prejudicial to the site in question and, if applicable, once the opinion of the general public has been given (Article 6(3) of Directive 92/43/EEC). The petitioner criticises the alleged unreliability of the impact report, which renders unfounded the claim that the project does not pose a serious threat to the protection and restoration of biodiversity and the environment. That criterion is enshrined in Article 18 of Regulation EU 2020/85 of the European Parliament and of the Council, which requires that each and every reform or investment measure within the NRRP comply with the principle of doing no significant harm to environmental objectives (DNSH), a major pillar for accessing funding under the Recovery and Resiliency Facility (RRF) (Article 17 of the Taxonomy Regulation). Lastly, the petitioner claims that the documentation filed by RFI on the EIA-AEI, and the statements made on the DNSH principle and procedure are vague, in contrast to what is set out in Circular No 32 from the Italian Minister of the Economy and Finance. The petitioner concludes by citing, in support of these arguments, the alleged lack of clarity in the favourable opinion issued by the NRRP Technical Committee on 20 June 2022 on the environmental compatibility of the project in question. The petitioner calls on the EU institutions to take action to ensure compliance with the rules.

## **2. Admissibility**

Declared admissible on 12 May 2023. Information requested from Commission under Rule 227(6).

## **3. Commission reply, received on 13 February 2024**

The Commission thanks the petitioner for the interest in Italy's Recovery and Resilience Plan.

The Commission observes that the investments referenced by the petitioner in the context of the implementation of railways infrastructural investments in the South and diagonal connections mainly refer to milestones and targets with indicative time of completion in the end of 2023, the first trimester of 2024 and finally in the second trimester of 2026, which the Commission has not yet assessed.

As correctly pointed out by the petitioner, all measures in the Italian RRP shall respect the principle of “do no significant harm” (DNSH) to environmental objectives, within the meaning of the RRF Regulation<sup>1</sup>. The Commission has assessed the compliance of the Italian Recovery and Resilience Plan against the DNSH principle requirements, following documentation provided by the Italian authorities, and concluded on a positive assessment on the measure submitted, as endorsed by the Council Implementing Decision approving the Italian RRP<sup>2</sup>.

The Commission's assessment of payment requests is based on the Council Implementing Decision approving the evaluation of the Recovery and Resilience Plan of Italy. The requirements contained in the description of the measure and milestone shall be satisfactorily fulfilled in order for the payment request to be approved.

Additionally, the Commission observes that the Council Implementing Decision has been

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<sup>1</sup> [Regulation - 2021/241 - EN - rrf - EUR-Lex \(europa.eu\)](#)

<sup>2</sup> [REVISED Annex to the COUNCIL IMPLEMENTING DECISION](#) on the approval of the assessment of the recovery and resilience plan for Italy.

amended on 8<sup>th</sup> December 2023<sup>3</sup>, impacting the scope of these RRF investments which has been reduced to the Battipaglia-Romagnano part of the Salerno-Reggio Calabria line under Investment 1.1 and to the Orte-Falconara and Taranto – Metaponto – Potenza – Battipaglia parts under Investment 1.3.

The petitioner claims that the project is contrary to several EU environmental laws. The Commission reaffirms that, in line with Art. 22 of the RRF regulation, Member States are responsible for ensuring that the measures for the implementation of their Recovery and Resilience Plan comply with Union and national law.

The Commission recalls that the Strategic Environmental Assessment (SEA) applies to public plans and programmes pursuant to the SEA Directive<sup>4</sup>. The question raised by the petitioner concerns a specific project which, as such, does not fall within the scope of the SEA Directive unless it is included in a broader plan/programme.

As regards the environmental impact assessment carried out for the project in accordance with the EIA Directive<sup>5</sup>, the Commission underlines that this assessment must take into account the impact of the whole project in question and the developer must provide in the EIA report a description of the physical characteristics of the whole project<sup>6</sup> irrespective of the possible phased implementation of the project.

Finally, article 6(3) of the Habitats Directive<sup>7</sup>, provides that any plan or project likely to have a significant effect on a Natura 2000 site shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. These conservation objectives need to be site specific<sup>8</sup>. Without prejudice to the Commission's assessment, the Commission notes that Italy has transposed the above-mentioned provisions in its legislation<sup>9</sup> and has adopted national guidelines<sup>10</sup> to improve their implementation across its regions, as it is specified in the description of the measures.

Please note that, without prejudice to the Commission's role as guardian of the Treaties, Member States are required to ensure compliance of measures included in the recovery and resilience plans with EU and national law, including with the EU environmental *acquis*. The Commission will further assess compliance of the measures with the DNSH principle, as

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<sup>3</sup>[ANNEX to the COUNCIL IMPLEMENTING DECISION](#) amending Implementing Decision of 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Italy

<sup>4</sup> Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment, OJ L 197, 21.7.2001, p. 30-37.

<sup>5</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, OJ L 26, 28.1.2012, p. 1–21.

<sup>6</sup> In accordance with Art. 5(1) and Annex IV of EIA Directive.

<sup>7</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, OJ L 206, 22.7.1992.

<sup>8</sup> <https://www.mase.gov.it/pagina/documenti-di-riferimento-lindividuazione-di-obiettivi-e-misure-di-conservazione>.

<sup>9</sup> <https://www.mase.gov.it/pagina/la-valutazione-di-incidenza-vinca#:~:text=Si%20tratta%20del%20processo%20d,di%20significativit%C3%A0%20di%20tali%20incidenze>

<sup>10</sup> <https://www.mase.gov.it/pagina/linee-guida-nazionali-la-valutazione-di-incidenza-vinca-direttiva-92-43-cee-habitat-articolo>

specified in the Council Implementing Decision, upon reception of the related payment request.

### Conclusion

In conclusion, the Commission recalls that the Council has approved the Commission's positive assessment of Italy's Recovery and Resilience Plan. The Commission has positively assessed that the Italian plan complies with the criteria for assessment set out in Regulation (EU) 2021/241, which include its contribution to effectively addressing all or a significant subset of challenges identified in the country-specific recommendations, the compliance with the principle of Do No Significant Harm and the contribution to the green transition.

The Commission's assessment of payment requests is based on the Council Implementing Decision<sup>11</sup>. In line with the RRF regulation, the requirements contained in the description of the measure and in its milestone and targets shall be satisfactorily fulfilled in order for the payment request to be approved. Milestones and targets relating to the investments at stake have not yet been assessed by Commission services.

The Commission also recalls that Member States are responsible for ensuring that their Recovery and Resilience Plan's implementation complies with Union and national law. The petitioner is therefore invited to refer his concerns to the competent national authorities as appropriate.

The Commission will continue to work closely with the Italian authorities to ensure regular, timely and correct implementation of the RRP.

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<sup>11</sup>[ANNEX to the COUNCIL IMPLEMENTING DECISION](#) amending Implementing Decision of 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Italy