(English version)

Question for written answer E-002855/24
to the Commission
Gaetano Pedulla' (The Left)
(11 December 2024)

Subject: New works on Lake Idro: compliance of extensions of EIA procedures with the principles of access to environmental information and public participation

Lake Idro is a fragile ecosystem that is home to a Natura 2000 site. Given the potential for significant environmental impacts, the works concerning the management of the regulation of water levels need to be transparent and involve local communities, based on the principles of the Aarhus Convention ([1]). Recent developments concerning the new works to regulate the waters of Lake Idro have highlighted possible gaps in public participation during the second extension of the Environmental Impact Assessment (EIA) measures ([2]). The Lombardy Region's interpretation of the national legislation ([3]) runs the risk of bypassing the aforementioned principles, even though there are significant project changes and environmental factors that could affect the lake's ecological balance.

In view of the above:

1 [1]Regulation (EC) No 1367/2006 of the European Parliament and of the Council, https://eur-lex.europa.eu/eli/reg/2006/1367/oj/eng

2 [2]Question 2500 of 16.9.2024 to the Regional Council of Lombardy, https://www.consiglio.regione.lombardia.it/wps/portal/crl/home/leggi-e-banche-dati/Atti-di-indirizzo-e-controllo/Dettaglio-atto-di-indirizzo-e-controllo?tipoatto=ITR&numeroatto=2500&idlegislatura=33

3 [3]Article 25 (5) of Legislative Decree No 152/2006, https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2006-04-03;152

1. Does the Commission believe that the procedures for extending the EIA measures could include derogations from the Aarhus Convention's principles of access to information and public participation, which have been transposed into EU law ([4])?

2. Does the Commission believe that the obligation to consult the local and regional authorities concerned under Article 5(2) of Directive 2011/92/EU should be guaranteed in order to ensure environmental governance that respects the principle of subsidiarity and the rights of local communities?

Submitted: 11.12.2024

Answer given by Ms Roswall on behalf of the European Commission
(29 January 2025)

1. Article 2 of the Environmental Impact Assessment (EIA) Directive ([1]) requires Member States to take all the necessary measures to ensure that, before consent is given, projects likely to have significant effects on the environment ([2]) are subject to a requirement for development consent and an assessment with regard to their effects. Article 6(4) provides that the public concerned shall be given early and effective opportunities to participate in the environmental decision-making procedure and shall be entitled to express comments and opinions when all options are open to the competent authority before the decision is taken ([3]). The project in question falls under the scope of the EIA Directive ([4]). According to publicly available information, an EIA was carried out in 2013 and the authorisation has since been extended twice. The Commission does not have sufficient information to assess whether the project has undergone a change or extension likely to have significant adverse effects on the environment justifying a new EIA procedure ([5]).

2. Article 6(1) requires Member States to ensure that the authorities likely to be concerned by the project, by reason of their specific environmental responsibilities or local and regional competences, are given an opportunity to express their opinion on the information supplied by the developer and on the request for development consent ([6]). The Commission does not have sufficient information to assess the situation in this respect.

3. Without prejudice to the Commission's role as guardian of the Treaties, Member States are primarily responsible to ensure compliance with EU law, including verifying individual cases of potential breach in the relevant development consent procedures ([7]).

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[4] [4]Article 2(4), point (b), of Directive 2011/92/EU, https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:32011L0092

([1]) 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 (codification), OJ L 026 28.1.2012, p. 1.

([2]) By virtue, *inter alia*, of their nature, size or location.

([3]) Article 2(4) of the EIA Directive provides that Member States may, in exceptional cases, exempt a specific project from the provisions laid down in the directive. In this event, they shall make available to the public concerned the information obtained when determining if other forms of assessment would be appropriate, the information relating to the decision granting exemption and the reasons for granting it. They shall also inform the Commission of the reasons justifying the exemption granted.

([4]) This project could be covered by Annex I, points 12 or 15, or Annex II, point 10 (f), (g) or (m).

([5]) Which would include a new public consultation.

([6]) Article 5(2) states that, where requested by the developer, the competent authority, taking into account the information provided by the developer in particular on the specific characteristics of the project, including its location and technical capacity, and its likely impact on the environment, shall issue an opinion on the scope and level of detail of the information to be included by the developer in the environmental impact assessment report. The competent authority shall consult the authorities referred to in Article 6(1) before it gives its opinion.

([7]) National authorities, including national courts, are thus the first line of enforcement of EU law and, in line with its strategic approach on enforcement procedures, the Commission focuses on systemic non-compliance (Communication of 19 January 2017: EU law: *Better results through better application* — C/2016/8600, OJ C 18, 19.1.2017, p. 10-20 and in the communication of 13 October 2022: COM(2022) 518 final — Enforcing EU law for a Europe that delivers).