

To the Secretary of the Supervisory Body
of the Aarhus Convention
aarhus.compliance@un.org

Sant'Angelo in Vado 03/07/2023

Subject: participation in the JUWI DEVELOPMENT 04 municipality of Sant'Angelo in Vado by the Territorial Planning Service of the Province of Pesaro Urbino

I'm Dini Giuseppe, I live in via [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED], my IT address is [REDACTED].
I am writing on behalf of the self-managed committee that was involved in the construction of a 6.1 Mw photovoltaic system involving approximately 76,755 square meters of surface area where it would like to build, 52 m from the town of Sant'Angelo in Vado. I am delegated to represent this stakeholder committee. My mobile [REDACTED] e-mail [REDACTED].

The manager of the Province of Pesaro Urbino dott. Maurizio Bartoli of the Territorial Planning Service of the Province of Pesaro Urbino, is the official who carries out these procedures.

The Territorial Planning Service of the Province of Pesaro Urbino independently publishes the various projects which are asked for the Environmental Impact Assessment (EIA) or requests for subjection to the EIA. The site is as follows: <https://www.provincia.pu.it/funzioni/pianificazione-territoriale/via-e-valutazione-dincidenza/elaborati-allegati-alle-pubblicazioni-di-via>

The company JUWI DEVELOPMENT 04 srl, via Sommacampagna, 59/D 37137 VERONA (VR) requests the Territorial Planning Service, the verification of Eligibility for the EIA for an agrivoltaic plant (photovoltaic for agricultural purposes) with a declared power of 6.1 Mw on an effective area of 63,500 square meters.

The project area available to the proposer is located in the municipal area of Sant'Angelo in Vado, Province of Pesaro Urbino and is identified in the N.C.T. as indicated below: sheet no. 41, maps 8-9-13-17-26-108-505-665, for a cadastral area of approx. 76.755, with WGS84 coordinates: 43°40'10.9" N - 12°25'34.1" E .

Among the documents, the table relating to the public directly concerned as they border the plant is missing, as they were not contacted by the Territorial Planning Service, as required by the Aarhus Convention itself art. 6 co. 2 and art. 7 of Law 241/1990.

Among other things, the publication of the files takes place in an encrypted way via the digital signature, which, however, can also be inserted in a format that is still visible and not used. In this way, access is not "facilitated" even though the administration has made the Dike decryptor program available. This behavior does not comply with the provisions of articles 3 and 68 of Legislative Decree 82/2005 known as the Digital Administration Code and art. 7 Legislative Decree 33/2013 on transparency.

We proceeded to send our observations (1) attaching 55 different signatures of the interested public, reporting the articles 6 and 8 of the Aarhus Convention and asking for the correct application. We have also highlighted how the Legislative Decree 387/2003 on renewable energy plants, art. 12 co. 4 mentions "...carried out in compliance with the principles of simplification and with the methods established by law no. 241 of 7 August 1990.

The answer received from Dr. Maurizio Bartoli (3) following our further reminder (2), indicates:

"The proceeding in question was carried out in the manner indicated by Article 4 of the Regional Law n.11/2019 and by the art. 19 Legislative Decree no. 152/06 and concluded with Executive Decision no. 1474 of 27/12/2022 with outcome: "excluded from EIA with environmental conditions";

with the initiation of the procedure (our prot. 25777 of 07/19/2022) and with the publication of the documents on the website of this institution, in compliance with the provisions of paragraph 3 of the aforementioned article 19, they were fully guaranteed forms of participation and publication;

no observations and/or written briefs were submitted during the publication period.

We also inform you that the observations formulated in the note dated 05/02/2023 cannot be taken into consideration as they relate to a closed proceeding and received after the deadline for publication."

With the assignment of the exclusion regime from the V.I.A. by the Territorial Planning Service, the system becomes executable, so that not having contacted the neighbors becomes for them an omission from the procedure.

Of the Aarhus Convention I consider not applied:

article 6 par. 2, in the part concerning the information to the public in an adequate, timely and effective manner through public announcements and individually (in particular);

par. 6

par. 7

par. 8

article 8

Art.6 paragraph 2 Failure to request the table concerning the cadastral data of neighboring citizens prevented the Territorial Planning Service from directly contacting these stakeholders

Article 6 paragraph 6 The public finds itself having to consult the various web spaces of the various administrations involved, making it even difficult to find projects of local interest. The Territorial Planning Service should have promptly notified the local municipal authority of the start of the procedure in its territory, delegating it to public information, which did not happen. Article 6 paragraph 7 No provision has been made to allow for public participation.

Article 6 paragraph 8 No consideration was given to the public's comments, so much so that in order to get answers, a further reminder had to be written. Article 8 The Territorial Planning Service of the Province of Pesaro Urbino could have sent the communication of the project to the territorially competent Municipality and delegated the local administration to public participation before the end of the procedure.

I believe that the communication concerns the right of public participation of the citizens of the Sant'Angelo in Vado area. I believe that the Spatial Planning Service does not consider the Aarhus convention very much, see also the answer it gave (3).

We wrote (1) (2) twice to get a simple answer; no internal remedies are envisaged other than recourse to administrative justice which is rather onerous for the ordinary citizen. In this case, the Municipality of Sant'Angelo in Vado appealed to the Regional Administrative Court on the incompleteness of the data and on the administrative discrepancies of the project.

Internal appeals are difficult to apply for the ordinary citizen, they don't always give results, especially appeals to managers who need to be warned to get answers. Administrative justice remains very burdensome for the individual citizen. The various provincial, regional and state bodies should be obliged to communicate the authorization procedures to the municipalities in order to delegate them to citizens' rights: access, information, observations.

No international procedures have been invoked. The AgID agency for digital Italy has been informed, in relation to recalling its supervisory power regarding the publication of files in non-open format and the lack of

facilitated access to the documentation pursuant to Legislative Decree 82/2005 and Legislative Decree Legislative Decree 33/2013.

I have no privacy issues.

I enclose:
observations made (1)
prompt reply (2)
response from dr. Maurice Bartoli (3)

National legislation
art. 12 Legislative Decree 387/2003 renewable energies
art. 7 L. 241/1990 administrative procedures access
documents articles 3 and 68 of Legislative Decree 82/2005
art. 7 d. Legislative Decree

33/2013 Best regards

Giuseppe Dini

A handwritten signature in black ink, appearing to read "Giuseppe Dini". The signature is written in a cursive, slightly slanted style.