

AARHUS CONVENTION COMPLIANCE COMMITTEE

United Nations Economic and Social Council

Economic Commission for Europe

Geneva, Switzerland

COMMUNICATION FROM MEMBER OF THE PUBLIC

NO. CASE PRE/ACCC/C/2023/205(Italy)

FILED PURSUANT TO CHAPTER VI OF THE DECISION OF THE MEETING OF THE PARTIES N. 1/7 OF 21-23 OCTOBER 2002

CASE PRE/ACCC/C/2023/205

STATEMENT BY ITALY

At the 19/9/2023 Compliance Committee open session discussion of preliminary admissibility of new communications, Italy wishes to thank the Committee for the opportunity to participate in this open session to consider preliminary admissibility.

Italy has taken note of the communication ACCC/C/2023/205 and it is its deferential submission that the criteria set out in the annex to decision I/7 of the Meeting of the Parties, and the further criteria identified by the Committee for deeming a communication inadmissible are fulfilled in the case 205.

It is the view of Italy that the request is unreasonable and should therefore not be admissible in accordance with Decision I/7, for the following reasons:

Regarding case 205, we would like to raise the following points.

1. Non-compliance with Article 7 in conjunction with Article 6, Paragraphs (2), (3), (4), and (8) of the Convention (letter A of the Communication)

In relation to the remarks raised by the Association *A Sud Ecologia e Cooperazione* (the "Association"), under letter A) of the Communication PRE/ACCC/C/2023/205 (the "Communication") it is noted that the Ministry of the Environment and Energy Security ("MASE"), initiated numerous engagement activities involving all public entities and sector stakeholders already during the preparation phase of the "*proposal*" for updating the integrated national energy and climate plan ("NECP"). Many of these activities will continue in 2023 and the first half of 2024 during the development of the "*final version*" of the NECP - scheduled, as per community regulations, for June 2024.

Through an online portal hosted on the MASE website, a consultative questionnaire (**Public and sector stakeholder consultation** open from May 8, 2023, to May 26, 2023) allowed citizens, businesses, worker and industry associations, non-profit organizations, industry professionals, financial institutions, investment funds, etc., to express their views and make proposals and observations on the main areas of interest for the NECP update, based on 34 questions that comprehensively covered all the topics included in the NECP update. Respondents had the opportunity to answer either through predefined options or by freely providing new proposals and supporting arguments.

In fact, the questionnaire was used to prepare a provisional draft update of the NECP, from a "zero level", following the public consultation.

The consultation proved to be a highly utilized channel, with a total of 925 respondents (72% citizens, 22% businesses and industry associations, 3% environmental associations, 3%

institutions and research entities). The result represents an even greater success compared to the 2019 consultation, in which a total of 207 respondents participated. The questionnaire proved to be an effective and well appreciated tool for public participation.

Additionally, in May 2023, a consultation was initiated with stakeholders from the productive world, associations, and research through an invitation to complete a specific form for collecting possible policies and measures to be considered for the Plan. Approximately fifty associations representing various sectors, including industrial, characterized by high energy consumption, and transportation (including maritime), gas, agriculture, water services, renewables, energy efficiency, and the environment, were involved for this purpose.

The contributions received through the consultative questionnaire and the form for collecting possible policies and measures from stakeholders provided confirmation or further details on certain potential and options to address challenges related to the new and more ambitious goals set out in the Plan. The most recurring themes were the development of renewables and energy efficiency, even in industrial sectors, the spread of biomethane, biofuels, hydrogen, and electric mobility.

In addition, MASE, having the prerogative to select and put in place the most appropriate tools and modalities to implement public participation for the various stages, has implemented the following initiatives:

- ✓ Involvement of central administrations
- ✓ Participation of local and regional authorities
- ✓ Participation of the National Parliament
- ✓ Consultations with other Member States
- ✓ Iterative process with the European Commission
- ✓ **Public consultation under the planned Strategic Environmental Assessment (SEA)**

The draft updated of the NECP was elaborated taking full account of the contributions received through the rounds of public participation and was made public on 19 of July. The draft update, clearly not final and subject to further elaboration and guidance both by the Commission and the public, was also sent to the Commission in order to comply with deadlines imposed by EU law. In addition, it is noticed that nothing prevent citizens and associations to present comments at any time through the dedicated portal on the MASE website and provided email contacts, even if an institutional public consultation is ongoing at the time, if it is felt by the public it needs to submit urgent comments.

On point of SEA, European regulations establish, through Directive 2001/42/EC, the principle that all plans and programs that may have significant effects on the environment must undergo a Strategic Environmental Assessment (SEA) process.

The SEA procedure provided for by Directive 2001/42/EC has been transposed at the national level with Legislative Decree no. 152 of April 3, 2006, and subsequent amendments.

Under Articles 13 and 14 of Legislative Decree no. 152/2006, the proposal for the Plan, the environmental report, and a non-technical summary thereof will be made available to competent environmental authorities and the interested public so that they can express their opinions.

The aforementioned Decree provides that any individual or legal entity, individually or collectively, can submit comments on plans and programs subject to Strategic Environmental Assessment, projects subject to Environmental Impact Assessment, installations subject to Integrated Environmental Authorization, even by providing new or additional knowledge and assessments.

To this end, MASE has initiated a working group to prepare the technical documentation that will be made available for consultation, with its first official meeting taking place on September 18.

Especially considering that the update of the NECP will undergo SEA, and fully-fledged provisions for public participation, it is not considered valid to assume, as stated in the Communication, that "*the public's right to have its opinion adequately taken into account before the final draft of the NECP update is adopted has been irreparably compromised*"

In light of the above, it is believed that the Association's remarks regarding the participation process cannot be supported.

2. Non-compliance with Article 3 (1) in conjunction with Article 5 (2), Letter b) (i), (3), Letter c), and (5), Letter a), and Article 7 of the Convention (Letter B of the Communication):

Without prejudice of what has been clarified in the previous paragraph, especially regarding the SEA and the fact that the information and sharing process for the NECP update has been and will be subject to further steps involving the participation of citizens, businesses, and associations, it should be emphasized that MASE has dedicated an entire section of its website to "*Energy and Climate 2030*."

News about the publication of the consultative questionnaire for the NECP update was posted by MASE (with the indication of the opening and closing dates of the consultation) as well as by the Manager of Energy Services – GSE S.p.A., from whose website the questionnaire could be downloaded and submitted after completion.

The opening of the public consultation was also reported in major daily newspapers and industry magazines such as Staffetta Quotidiana, Quale Energia, Rinnovabili.it, and Quotidiano Energia, with explicit references to the GSE website, as well as on specialized websites such as that of the Association for Environment and Labor or Assolombardia. In these cases as well, the opening and closing dates of the consultation were indicated.

In light of the above specified, it is therefore believed that comprehensive and widespread information has been provided regarding the opportunity to express opinions on the NECP update, and consequently, the remarks made by the Association under letter B) of the Communication cannot be accepted.

In conclusion, since the procedure for updating the NECP is still in progress and there is no final decision yet, while public participation has been performed in early stages and during the various steps of preparation of the update, and the SEA and the related public participation procedure are expected to be implemented soon, Italy asks the Compliance Committee to refrain from taking charge of the case at this time.