

To the Secretary of the Supervisory Body
of the Aarhus Convention

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Subject: Public participation to the project "Intervento AN58 Itinerario internazionale E78 Grosseto – Fano. Tratto Selci Lama (E45) – S. Stefano di Gaifa. Adeguamento a due corsie della Galleria della Guinza (lotto 2) e del tratto Guinza-Mercatello Ovest (lotto 3), 1° stralcio. Opere di completamento – CUP: F71B16000460001"¹

I. Information on correspondent submitting the communication

We are a group of citizens, diffused stakeholders, self-named **Voci dalla Valle** (Voices from the Valley, indicating the upper Metauro river valley). Annex 1 shows the members of the executive group of Voci dalla Valle.

The contact person of the group is [REDACTED]
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II. Party concerned

Italy

III. Facts of the communication

We formed in August 2023 when we learned that the Azienda Nazionale Autonoma delle Strade (A.N.A.S.) had approved the project in question. This project plans to open the Guinza tunnel to one-way traffic and channelling it into the centre of Mercatello sul Metauro and into the small state road 73 bis serving the Metauro valley.

The Guinza Tunnel is a tunnel that is to connect the regions of Marche and Umbria. Work on its construction began during the 1980s, and in 2006 the first of the two planned tubes was completed. This tunnel has never opened as it was never completed.

The project in question (lot 2 and lot 3 of the Selci Lama - S. Stefano di Gaifa section) consists in the adaptation of the Guinza tunnel (lot 2) and its connection to the existing road system through the Provincial Road (SP) 200 of Parnacciano and the Provincial Road (SP) 157 of Guinza (lot 3).

¹ "Project AN58 International route E78 Grosseto - Fano. Section Selci Lama (E45) - S. Stefano di Gaifa. Adaptation to two lanes of the Guinza Tunnel (lot 2) and the Guinza-Mercatello Ovest section (lot 3), 1st section. Completion works - CUP: F71B16000460001"

The object of the adaptation of the Guinza tunnel is the opening of said tunnel, only one-way in the Marche → Umbria direction. This is because the tunnel does not comply with the new European traffic regulations that do not allow two-way traffic for a tunnel of this type (6 km in length). The opening is planned in “construction site” mode, with a traffic restriction of 2,000 vehicles per day.

Both the SP 157 of Guinza that will be used to reach the tunnel’s entrance, as well as the SP 200 of Parnacciano planned to connect the tunnel’s exit, are inadequate roads with a carriageway width of less than 4 metres, in places around 3 metres.

The design process had the following timeline:

- 2018:
 - The A.N.A.S. design coordination board drew up the final design for the completion of the tunnel.
- 2019:
 - A.N.A.S. developed the hypothesis of operating the tunnel on an alternating one-way basis, hypothesis rejected by the Standing Committee on Tunnels of the Ministry of Infrastructure and Transport on 4/1/2019.
 - On 6/6/2019 A.N.A.S. sent the Standing Committee on Tunnels a proposal for one-way traffic from Marche to Umbria.
 - Following an informal consensus, on 11/11/2019 A.N.A.S. sent the updated final draft to the Standing Committee on Tunnels.
- 2020:
 - On 17/12/2020, the Standing Committee on Tunnels asked A.N.A.S. to request an exemption to the Ministerial Decree (DM) 05.11.2001 and to supplement the project with a driving simulation.
- 2022:
 - On 17/03/2022 A.N.A.S. submitted the application for an exemption to the Highway Code to the Interregional Public Works Superintendency.
 - On 22/06/2022, the Superintendent did not grant the exemption and only envisaged the possibility of opening the tunnel one-way, temporarily, and in “construction site” mode.
- 2023:
 - On 24/02/2023 the final project was approved by the Extraordinary Commissioner Massimo Simonini (see annex 2).
 - On 28/07/2023, the Extraordinary Commissioner approved the executive project with ruling no. 4/2023 (see annex 3).
 - On 04/08/2023, a call for tenders was issued.
- 2024
 - On 12/02/2024, the handover to contractors took place.

The project in question, “Intervento AN58 Itinerario internazionale E78 Grosseto – Fano”, follows the definition included in Annex 1, point 8b of the Aarhus Convention, also mentioned in the Article 6.1.a of the same treaty. It is a road conforming to the definition contained in the European agreement on major international traffic routes dated 15 November 1975. As such, the public concerned should have been involved through a participatory process at an early stage of the project, process that was non-existent. Instead, **the planning process of the variants of lot 2 and 3 of the E78 road took place with a total lack of information towards the affected population**, which, with the exception of the people who received a letter of expropriations, learned of the approval of the executive project from the press (28/07/2023).

The public concerned includes the inhabitants of the Metauro valley and in particular those of Mercatello sul Metauro (who will suffer the effects of the decision-making process, such as the traffic of 2,000 cars per day passing through the town centre, the impact of the project on the town's drinking water coming from the valley where the road is being built, and the changes to the territory with a significant impact on the environment), and the people directly affected by the expropriations. The latter were notified of the start of the approval procedure for the final project and the consequent expropriations on 02/01/2023, **without having had the opportunity to intervene in the initial stages of the decision-making process that began in 2018.**

In addition, one of the persons affected by the expropriation process, who received a letter from A.N.A.S on 02/01/2023 (annex 4) sent a letter with comments on 31/01/2023 (annex 5) via certified email, but in the document Ruling N2/2023 dated 24/02/2023 (annex 2, page 6) A.N.A.S. states that no comments were received.

IV. Provisions of the Convention with which non-compliance is alleged

According to us, the articles of the Aarhus Convention that were not applied are:

- Article 6.2
- Article 6.3
- Article 6.4
- Article 6.5
- Article 6.6
- Article 6.7
- Article 6.8
- Article 6.9

V. Nature of alleged non-compliance

Art 6.2 and Art. 6.3 - The public concerned was not informed of the decision-making process regarding the environment at an early stage, neither adequately, effectively, nor in a timely manner. Notification of the beginning of the final project approval procedure was sent when all opinions of all the bodies involved had already been acquired.

Art. 6.4 - Neither the citizens of the Upper Metauro Valley, nor those affected by the expropriations were involved at an early stage when all alternatives were still open and where participation could have had an effective influence. The procedure was completed without consulting the public concerned.

Art. 6.5 - There was no activity aiming to identify the public concerned, to initiate discussions or provide information. When finally, on 07/09/2023, our group Voci dalla Valle pushed for the organisation of a public meeting with the help of the Mercatello sul Metauro municipality to inform the citizens about the project, the event was a success, as demonstrated by the very high interest shown and the participation of about 200 people *in situ* and about 300 people via the online streaming of the event ([link](#) to video of the event).

Art. 6.6 – The information regarding the project is not transparent, nor it is effectively accessible. It is very difficult for the public concerned to find the website where this information is available. Once you find the right site and page (ANAS's [link](#) to all the documents), you are faced with a list of almost 700 technical documents that are impossible for a general public to sift through, interpret and understand. We were not able to find among these documents a non-technical summary of the above (Art. 6.6.d), a description of the main alternatives considered (Art. 6.6.e) or a description of the measures planned to prevent and/or reduce negative effects on the environment (Art. 6.6.c).

Art. 6.7. - The public concerned had no opportunity to submit any comments, information, analyses, or opinions deemed relevant to the proposed project.

Art. 6.8 - The observations sent by one of the persons affected by the expropriations (annex 5) were not taken into account, since in the document Ruling no. 2/2023 of 24/02/2023 (annex 2) at page 6 A.N.A.S. states that "following the delivery of the notifications, no observations were received".

Art. 6.9. - The reasons and considerations on which the project is based have not been explained.

We believe that the breach of these articles is both general and specific in nature: general regarding the public concerned, i.e. the citizens of the Upper Metauro Valley who were deprived of the opportunity to participate in the decision-making of a project that has

significant effects on the environment; specific regarding the person whose comments were ignored.

VI. Use of domestic remedies

As a citizens' group, we are entitled to legal recourse through an appeal to the Regional Administrative Tribunal (TAR), but since information on the development of the project reached us too late, after the executive project had already been accepted, we were unable to appeal. An appeal to the TAR can in fact be made within 60 days of the act considered detrimental (in this case the approval of the executive project), a deadline which in our case had expired. Moreover, an appeal to the TAR has out-of-pocket expenses for stationery and revenue stamps amounting to approximately 1,000 euros, to which the lawyers' legal fees must be added, which can vary from 8,000 to 10,000 euros depending on the tariffs. Such huge expenses would in any case have been impossible for a small group of citizens like ours to bear, also considering that legal aid only exists for those below the poverty line.

In conclusion, there are no more appeals available for our group at this time, as the project has already reached the handover to contractor stage.

VII. Use of other international procedures

No international procedures were invoked.

VIII. Confidentiality

We request that all the data regarding the person involved in the expropriations be kept confidential as she could be penalised.

IX. List of supporting documentation:

- Annex 1 - List of members of the Voci della Valle executive group
- Annex 2 - Device No. 02/2023 (final project approval)
- Annex 3 - Device No. 04/2023 (executive project approval)
- Annex 4 - Expropriation notice letter
- Annex 5 - Letter of comments sent to A.N.A.S.

X. Signature



Voci dalla Valle

Mercatello sul Metauro, 29.04.2024