

**30 May 2008**

**Written Question by Roberto Musacchio (GUE/NGL)**

Subject: Identification of waste-storage sites in Campania, the compliance thereof with the environmental criteria laid down in EC law and transparency in the provision of information    Answer(s)

Given that: — as Mr Dimas (Commissioner) informed the European Parliament on 15 January 2008, the EU is closely examining the Italian Government's waste-disposal policies and its Emergency Plan for resolving the situation in Naples;

— although no fines have yet been imposed, the European Court of Justice has recently condemned Italy for its failure to abide by the rules and conditions relating to the authorisation, establishment and management of refuse dumps pursuant to Directive 1999/31/EC(1) (which in 2003 had still not been incorporated into Italian law) and is thus demanding that Italy should immediately and rigorously apply the relevant Community law, failing which a second condemnation will be issued and penalties may be imposed;

— on 21 May 2008 in Naples the Council of Ministers announced that seven waste sites had been selected in Campania, the names of which will be made officially known when they are published in the Official Journal;

— as regards the amount and the volume of the waste to be treated, the disposal sites will not only have to comply with the conditions laid down in Directive 1999/31; each will have to undergo an environmental-impact assessment pursuant to Directive 85/337/EEC(2), Directive 97/11/EC(3) and Directive 2001/42/EC(4), whilst the Emergency Plan will have to be drawn up in accordance with the Aarhus Convention on participation by the public in accordance with the provisions of Directive 2003/35/EC(5) of 26 May 2003,

is the Commission — as it constantly monitors the situation in Italy — keeping a close eye on the current procedures designed to deal with the emergency in Campania, and has it been informed and reassured by the Italian Government that the waste-disposal sites have been identified and the procedures for determining the suitability thereof have been drawn up in accordance with the abovementioned Community legislation, with full public access and full public participation in the drawing-up of the plans and in checks on their compliance with environmental law?

(1) OJ L 182, 16.7.1999, p. 1.

(3) OJ L 73, 14.3.1997, p. 5.

(5) OJ 101, 23.4.2003, p. 3.

(2) OJ L 175, 5.7.1985, p. 40.

(4) OJ L 197, 21.7.2001, p. 30.

***ALLEGATO***

**Answer**

P-3160/08EN

Answer given by Mr Dimas on behalf of the Commission  
(9.7.2008)

The Commission is aware of the adoption of Decree-Law 23 May 2008, n. 90 and preliminary discussions have already taken place between the Commission and the Italian authorities on its provisions.

An in-depth assessment of the Decree is ongoing and the Commission will follow closely its conversion into Law by the Italian Parliament.

The Commission expects that any measures taken by Italy to face the current waste crisis in the Campania Region to be fully in line with Community environmental law.

Should this not be the case, the Commission will be obliged to act under Article 226 of the EC Treaty to ensure that Community law is correctly applied.

**5 June 2008**

**Written Question by Monica Frassoni (Verts/ALE)**

Subject: Decree Law No 90 of 23 March 2008 (waste) Answer(s)

On 23 March 2008 the Italian Government issued a decree law laying down extraordinary measures to address the waste-disposal emergency in the Campania region. The decree explicitly derogates from a number of national provisions governing the transposition of Community directives relating, in particular, to environment impact assessments, waste, landfill, emissions and the provision of information to stakeholders in accordance with the Aarhus Convention (Directives 2003/4/EC(1) of 28 January 2003 and 2003/35/EC(2) of 26 May 2003. For example: (a) Article 8 of the decree law derogates from Article 2 of Legislative Decree 36/2003 (transposing Article 2 of Directive 1999/31/EC(3)) by extending by three years the time limit for the storage of waste at a given site pending its transfer to a treatment or incineration facility and thus de facto authorising landfills without actually saying so;

(b) Article 9 of the decree law which, with reference to environmental impact assessments on landfills and other facilities, explicitly derogates from Italian provisions governing the transposition of Community directives in this area by providing for a procedure lasting only seven days (which may be extended by a further seven days), thus making it impossible, in practice, for stakeholders to express their opinion (pursuant to Article 6 of Directive 85/337/EEC(4)) before work starts on a project or a waste disposal plan is submitted to the legislative procedure (Article 6 of Directive 2001/42/EC(5));

(c) Article 18 of the decree law, which authorises the Secretary of State with responsibility for the waste-disposal emergency in Campania and his appointed representatives to derogate from countless Italian provisions governing the transposition of Community directives, including — to mention but the most glaring examples — the aforementioned Legislative Decree 36/2003 transposing Directive 1999/31/EC, with respect to the articles listing admissible and inadmissible waste in landfills (Articles 2, 5, 6 and 7), the article prohibiting the dilution and mixing of waste for the purpose of complying with the admissibility criteria (Article 16) and point 2.4. of Annex I (which takes over point 3 of Annex I to Directive 1999/31/EC) laying down rules governing geological barriers in landfills.

Would the Commission not agree that a detailed analysis should be made of the derogations provided for in the above decree law? How permissible is it for Member States to fail to comply with Community law when faced with an emergency?

- (1) OJ L 41, 14.2.2003, p. 26. (2) OJ L 156, 25.6.2003, p. 17.  
(3) OJ L 182, 16.7.1999, p. 1. (4) OJ L 175, 5.7.1985, p. 40.  
(5) OJ L 197, 21.7.2001, p. 30.

P-3235/08EN

P-3259/08EN

P-3261/08EN

**Answer given by Mr Dimas**

on behalf of the Commission

(11.7.2008)

The Commission is aware of the adoption of Decree-Law 23 May 2008, n. 90 and in this respect, reference is made to the reply to a previous parliamentary question P-3160/08 by Mr Musacchio<sup>1</sup>.

The decree's conformity with Community environmental law, including the derogations contained therein is currently being assessed by the Commission, which is following closely its conversion into Law by the Italian Parliament.

Derogations from the binding provisions of Community law in a situation such as the waste crisis in Campania are not foreseen under the EC Treaty, except where explicitly provided for under the relevant legal instruments.

The Commission expects, therefore, that any measures taken by Italy to face the current waste crisis in the Campania Region will be fully in line with Community environmental law.

Should this not be the case, the Commission will be obliged to act under Article 226 of the EC Treaty to ensure that Community law is correctly applied.

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<sup>1</sup> OJ C...