



EUROPEAN COMMISSION

Complaint – Infringement of EU law

Before filling in this form, please read 'How to submit a complaint to the European Commission': https://ec.europa.eu/assets/sg/report-a-breach/complaints_en/

All fields with * are mandatory. Please be concise and if necessary continue on a separate page.

1. Identity & contact details

| | Complainant* | Your representative (if applicable) |
|---|--|-------------------------------------|
| Title* Mr/Ms/Mrs | Mr. | |
| First name* | Marco | |
| Surname* | Tiberti | |
| Organisation: | European Consumers | |
| Address* | European Consumers Via Trento n.2 | |
| Town/City * | Cittaducale (RI) | |
| Postcode* | 02015 | |
| Country* | Italy | |
| Telephone | 0746602892 | |
| E-mail | marco.tiberti@european consumers.it | |
| Language* | Italian | |
| Should we send correspondence to you or your representative*: | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

2. How has EU law been infringed?*

| | Authority or body you are complaining about: |
|-------------|--|
| Name* | Ministero dell'Ambiente e della Tutela del Territorio e del Mare (Ministry of the Environment and Protection of the Territory and the Sea) |
| Address | Via Cristoforo Colombo, 44, , |
| Town/City | Rome |
| Postcode | 00147 |
| EU Country* | Italy |
| Telephone | +39 06.5722.5644 - 5545 - 5546 – 5547 (Legislative Office) +39 06.5722.8702 - 8701 |
| Mobile | |
| E-mail | |

| | Authority or body you are complaining about: |
|-------------|--|
| Name* | Regione Lazio |
| Address | 1) Ufficio dell'amministrazione regionale: Via Giorgione 18 2) Giunta regionale: Via Rosa Raimondi Garibaldi, 7 |
| Town/City | Roma |
| Postcode | 1) 00147 2) 00145 |
| EU Country* | Italy |
| Telephone | +39 06 5960 6656 |
| Mobile | |
| E-mail | urp@regione.lazio.legalmail.it ; protocollo@regione.lazio.legalmail.it |

| | Authority or body you are complaining about: |
|-------------|--|
| Name* | Provincia di Rieti |
| Address | Via Salaria, 3 - |
| Town/City | Rieti (RI) |
| Postcode | 02100 |
| EU Country* | Italy |
| Telephone | +39 0746-286288 |
| Mobile | |
| E-mail | urp.provinciarieti@pec.it , segretario@provincia.rieti.it |

2.1 Which national measure(s) do you think are in breach of EU law and why?*

| |
|--|
| <p>Violation regarding the EIA procedure regarding ZPS IT6020005 "Monti Reatini", SAC IT6020009 "Bosco di Vallonina", SAC IT6020007 "Monte Terminillo Group" of the Project "Interventions for the restructuring and expansion of the ski facilities in the Monte Terminillo ski area" Regional Law n. 31 of 24/12/2008, art. 39 - Review of the project "Terminillo Stazione Montana Responsible Tourism" in implementation of the DGR Lazio 162 of 11.04.2017.</p> <p>Negative environmental compatibility judgment, expressed, also with reference to the landscape profiles considered above, by the Lazio Region, Impact Assessment Area 13 environmental, with note prot. 59060/29/25 on March 4, 2010 (as part of the assessment judgment of environmental impact, according to art. 23, of Legislative Decree 152/2006, of impact assessment pursuant to art. 5 of the Presidential Decree 357/1997, and impact assessment pursuant to Presidential Decree 120/2003, concerning the implementation of the directive 92/43 / EEC).</p> <p>The Regional Council can, through the appropriate provision, approve the afore mentioned plan, also in contrast with the conservation measures referred to in the Annexes to DGR 612/2011, but it have to provide in any case, on the site itself, mandatory compensatory measures, aimed at protect the overall coherence of the Natura 2000 network by informing the Ministry of the Environment of the protection of the territory and the sea in advance and, through it, the European Commission. This was not happened.</p> |
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2.2 Which is the EU law in question?

Infringement of Directive 2014/52/EU of the European Parliament and of the council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment

Infringement of Community rules on free competition (Art. 87 of the Treaty establishing the Community European) for regional aid ("state aid") planned to finance the project

The question of compatibility with the Community rules on public aid for sky areas has repeatedly intervened, with its own decisions, the European Commission. See in particular and between the others: a) decision of February 27, 2002, relating to a law of the Region of Tuscany concerning a "Fund for cableway innovation"; b) Decision of 9 April 2002 on aid measures for sports resort facilities winter in the Autonomous Province of Bolzano / Bozen; c) decision of 7 May 2004, relating to aid measures for cableway installations moved by the Region Valle d'Aosta; d) decision of 27 February 2008, relating to the norm of the regional law of the Veneto which provides for the granting of loans to ski resorts.

Incorrect application of the procedures relating to the Compensation Measures pursuant to art. 6 paragraph 4 of the Habitat directive (92/43 / EEC) Based on what has been argued above, they are observed the lack of:

- precise definition of the impacts on the priority habitat pursuant to the Habitats Directive (92/43 / EEC)
- official declaration of the competent bodies regarding the relevant public interest
- documentation to be transferred, or transmitted, to the EC regarding the compensation measures

2.3 Describe the problem, providing facts and reasons for your complaint* (max. 7000 characters):

The project involves about 12 km of new slopes and skiwegs which compared to the existing 25 km represent 50% increase and construction of 9 new lifts in addition to existing 7. The project foresees significant impacts in priority habitats pursuant to Directive 92/43 / EEC.

There will be cuts in SAC IT6020009 Bosco della Vallonina to allow the passage of ski slopes and lifts. In this SAC there is the priority habitat of Faggeti degli Appennini with *Taxus* and *Ilex* (code 9210 *). As a priority it should be fully protected. The project intends to cut spontaneous tall trees for which any type of compensation is impossible. These woods are fundamental for the survival of priority invertebrates (*) and of Community interest listed in Annex II of the HABITAT Directive: * *Rosalia alpina*, *Cerambyx cerdo*, *Parnassius mnemosyne*, *Parnassius apollo*, *Euphydryas aurinia*.

The Incidence Assessment is reported exclusively to the ZPS IT6020005 "Monti Reatini" and not to the ZSC IT6020009 "Bosco di Vallonina" for habitat 9210 * and ZSC IT6020007 "Monte Terminillo Group" for habitat 6210 *. The subtraction of cited priority habitats are reported to the ZPS IT6020005 "Monti Reatini" but the interference falls on the SAC IT6020009 "Bosco di Vallonina" and the SAC IT6020007 "Monte Terminillo Group" generating an artificial reduction of the interference indicator.

In both SAC, interventions on the other priority habitat 6210 * is not subject to permanent removal and also subject to impacts defined in the impact study as "temporary", deriving from the construction phase, for which it is reported potentially "even serious damages by personnel and machinery during the works". The damage is in fact permanent, being environments that have evolved naturally, impossible to restore or compensate. The impacts on vegetation are considered mitigable and not it's required compensation but no improvement being highlighted on the environment.

Compensation measures for vegetation must be proposed by complying and producing preparatory documentation pursuant to art. 6 paragraph 4 of the Habitats Directive (92/43 / EEC) (declaration of significant public interest and format prepared by the EC). To consider the compensations an integral part of the project it is necessary to verify in advance and officially the imperative reasons of significant public interest of the work and afterwards, **forward the communication to the EC. This was not happened**

The area covered by the planned project is for the Marsican Bear primary habitat with high/medium suitability and primary ecological trap; strategic territory as a connection area between the Duchessa - Velino - Sirente group and the National Park of the Sibillini Mountains. The wildlife study prepared by the designers not provide for any mitigation work towards fauna.

In the conservation measures for both SACs, the creation of "ski complexes" is reported among the "pressures and threats", in particular that the "Impacts on the plant formations of interest and on the Wolf are foreseeable if the enlargements of the ski facilities will be carried out".

The solution / mitigation of sky activities constitutes one of the macro-objectives of the Area Management Plan. According to it existing lifts and slopes interfere with the continuity of the areas of species of Community interest present and with the priority habitat "Beech forests of the Apennines with Taxus and Ilex" (code 9210 *). New ski lifts and slopes could further interfere with the species of Community interest present and with a priority habitat: "Beech forests of the Apennines with Taxus and Ilex" (code 9210 *).

It is said that the vegetation cover of the territory concerned makes it highly resilient with respect to the ecologic fragmentation of the habitats present and that the ski lifts given the extension of the woods do not induce the effects of an ecological fragmentation.

In reality they are high impact works, which fragment habitats characterized by their continuity, in a further and definitive way, also reducing the resilience of the system. Not to mention that the opening of further clearings can destabilize even adjacent areas of the forest ecosystem.

According to the Incidence Study, the impact due to the cutting of the forest with frequent interventions to pass a ski lift is defined as a semi-permanent impact and it is stated in the SIA that the loss of these surfaces compared to the reference context is small and the significance with respect to the surface loss is low (0.12%).

These claims do not consider that these are priority habitats within the meaning of Directive 92/43 / EEC for which the Natura 2000 network pays particular attention to maintaining their integrity.

The above procedures do not seem to have occurred from the analyzed documentation. Furthermore, a reference to the criteria established in:

- The management of Natura 2000 sites. Guide to the interpretation of art. 6 of the Habitats Directive 92/43/EEC
- Evaluation of plans and projects with significant impact on Natura 2000 sites. Methodological guide to the provisions of art. 6, paragraphs 3 and 4 of the Habitats Directive 92/43 / EEC

Among the critical aspects of the area, there are other factors that could only be intensified by the alteration of the current situation caused by the implementation of TSM2:

- Potential penetrative presence of hikers and mushroom hunters in the summer-autumn period in some areas of the SIC, where the Wolf was found or could be present.

- Presence of hydraulic works that influence the status of one of the reported habitats: "Alpine rivers with riparian vegetation in *Salix elaeagnos*" (code 5130).
- Problems in the renewal by seed of *Taxus baccata* (facilitated by the increase in anthropic disturbance and the reckless cuts already made)
- Disturb for Wolf and Bear populations
- Risk of rarefaction of the populations of *Rosalia alpina* and Picchio dorsobianco due to cutting and removal of large dead or perishable beech trees.

Conclusion: the Regional Decision to sacrifice irreproducible habitats in the name of a doubtful economic interest is an attitude in total opposition to the sustainability criteria that should guide every action of public and private interest.

We reiterate that, according to European directives, if a plan, project or intervention is to be carried out on a site where there is a type of natural habitat and/or a priority species, only considerations connected with the health of the human safety and public safety or relating to positive consequences of primary importance for the environment or, subject to the opinion of the European Commission, other imperative reasons of significant public interest.

For all these reasons, we ask for the intervention of the European Commission to stop the projects and the immediate start of an infringement procedure.

2.4 Does the Country concerned receive (or could it receive in future) EU funding relating to the subject of your complaint?

Yes, please specify below No I don't know

European structural and investment funds 2014-2020

2.5 Does your complaint relate to a breach of the EU Charter of Fundamental Rights?
The Commission can only investigate such cases if the breach is due to national implementation of EU law.

Yes, please specify below No I don't know

The "Terminillo Stazione Montana, Responsible Tourism" project is receiving public funding that the Lazio Region has established, based on the L.R. December 24, 2008, n. 31, art. 39 and later resolutions (Resolution no. 68 of 24 February 2012, D.G.R. no. 605 of 14 December 2012) a specific chapter of the Regional Budget (Cap.D44523) called "Interventions for the restructuring and expansion of ski lifts in the Monte Terminillo ski area", allocating a sum of €. 20,000,000.00.

This funding from public bodies, relevant for the realization of the project, is configured as a "state aid" that violates one of the cardinal principles of the European Union order from freedom competition between all economic operators operating in the territory of the States of the Union (Official Journal of the European Union of 29.12.2006 n. C 321).

We think that there is an evidence of violation of par. 3 of cap. 3 of European Union Treaty for the uncompatibility of the TSM2 actions with sustainable development.

3. Previous action taken to solve the problem*

Have you already taken any action in the Country in question to solve the problem?*

IF YES, was it: Administrative Legal ?

3.1 Please describe: (a) the body/authority/court that was involved and the type of decision that resulted; (b) any other action you are aware of.

Regione Lazio. No decision.

3.2 Was your complaint settled by the body/authority/court or is it still pending? If pending, when can a decision be expected?*

No answer.

4. If you have already contacted any of the EU institutions dealing with problems of this type, please give the reference for your file/correspondence:

Petition to the European Parliament – Ref:.....

European Commission – Ref:.....

European Ombudsman – Ref:.....

Other – name the institution or body you contacted and the reference for your complaint (e.g. SOLVIT, FIN-Net, European Consumer Centres)

5. List any supporting documents/evidence which you could – if requested – send to the Commission.

 Don't enclose any documents at this stage.

Osservazioni inerenti la procedura di VIA del progetto "Interventi per la ristrutturazione e l'ampliamento degli impianti sciistici nel comprensorio sciistico del Monte Terminillo" Legge N° 31 Del 24/12/2008, Art 39 - Revisione del progetto "Terminillo Stazione Montana Turismo Responsabile" In Attuazione Della Dgr Lazio 162 Del 11.04.2017 (Avviso Pubblico DEL 16.01.2020)

Cartography drawn up by the University of Rome "La Sapienza" and adopted by the Ministry of the Environment and Territorial Protection and from the Action Plan for the Protection of the Marsican Bear (P.A.T.O.M.) (Falcucci A., et al., 2009)

In the past an investigation started with a complaint against unknown persons presented, at the then Provincial Command of the Forestry of Rieti, by Marco Tiberti of Ecological Research Groups and European Consumers and by Daniele Boninsegni of the Italian Alpine Club, representing a group of stakeholders that for years has denounced the inconsistency of the TSM (Terminillo Stazione Montana) project.

The associations have always considered the works, subject of the procedure, to be abusive as they lack the necessary authorizations; it is quite clear, in a delicate and protected context such as that of Terminillo, the impossibility of proceeding with the execution of works without prior environmental assessments (SEA and EIA), as well as in the absence of an Assessment of Incidence (VINCA) since it is areas protected by the European Natura 2000 Network.

The works subject to the complaint were carried out in summer 2013 with the replacement of the single-seater ski lift with a four-seater, with consequent enlargement of the cableway route and therefore cutting of trees, in the total absence of an Incidence Assessment. The investigation led to a trial against a mayor of the municipality involved who was later acquitted by effectively closing the investigation.

6. Personal data*

Do you authorise the Commission to disclose your identity in its contacts with the authorities you are lodging a complaint against?

Yes No

 *In some cases, disclosing your identity may make it easier for us to deal with your complaint.*