



15.10.2019

NOTICE TO MEMBERS

Subject: Petition No 0255/2019 by I. R. S. (Spanish), on behalf of the United Left of Cantabria, on possible irregularities with regard to the granting of a prospecting licence for mining in Cantabria.

1. Summary of petition

The petitioner calls for an investigation to be carried out into whether Cantabria's regional government has acted in line with EU legislation in giving its approval for the Salia prospecting project. The petitioner alleges that the following directives have been breached: Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment; Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora; Directive 2009/147/EC on the conservation of wild birds.

2. Admissibility

Declared admissible on 26 June 2019. Information requested from Commission under Rule 227(6) (Former Rule 216(6)).

3. Commission reply, received on 15 October 2019

The Commission notes that the Environmental Impact Assessment (EIA) Directive¹ requires that projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location be made subject, before development consent is given, to an assessment with regard to their effects. Prospective or exploratory mining projects that include deep drillings could fall within Annex II.2.d) of the EIA Directive and, in such cases, the competent authorities would be required to determine whether an assessment in accordance with the

¹ Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment Text with EEA relevance, *OJ L 26*, 28.1.2012, p. 1–21.

Directive is necessary.

The Commission notes that, in any event, the Directive provides for review procedures before a court of law or another independent and impartial body to challenge the substantive or procedural legality of decisions issued in the context of an environmental impact assessment procedure.

The Commission notes that Member States are the competent authorities to ensure the protection of Natura 2000 sites from potentially damaging extractive activities, in accordance with the applicable provisions of the Habitats² and Birds Directives³. The Commission has issued guidance on how to reconcile quarrying and other mineral extraction activities with EU biodiversity and nature conservation requirements⁴.

Moreover, the Commission has been unable to identify in this case any issue of wider principle, sufficient evidence of a general practice, or a systematic failure to comply with EU law.

Conclusion

Given the above, the Commission is not in a position to provide further follow-up on this petition.

² Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, *OJL 206*, 22.7.1992, p. 7–50.

³ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, *OJL 20*, 26.1.2010, p. 7–25.

⁴ “Non-Energy Mineral Extraction and Natura 2000”.

http://ec.europa.eu/environment/nature/natura2000/management/docs/nee_n2000_guidance.pdf