

# EUROPEAN PARLIAMENT

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*Committee on Petitions*

3 February 2006

## NOTICE TO MEMBERS

**Petition 0253/2004, by Pedro Fernández Arcila (Spanish), on behalf of the Tinerfeña Wildlife Protection Association, on the construction of a new seaport in the Granadilla industrial area in Tenerife, Spain.**

**Petition 0785/2004 by Beatriz González González (Spanish), on behalf of the Citizens' Action Group against the Industrial Port of Granadilla, and 2 co-signatories, concerning infringement of Community environmental legislation**

### 1. Summary of petition 0253/2004

The petitioner expresses concern at the construction of a new seaport in the industrial area of Granadilla, Spain which he alleges, infringes the provisions of Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, in particular Articles 3, 5(3), 6 and 8.

### Summary of petition 0785/2004

The Citizens' Action Group has lodged numerous complaints against the industrial port of Granadilla on the grounds that it infringes Community environmental legislation, in particular the directive on the assessment of the effects of certain public and private projects on the environment (Directive 85/337/EEC and subsequent amendments) together with Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 90/313/EEC on the freedom of access to information on the environment. In addition, they object to possible European Union funding for the projected new port in the Granadilla - Santa Cruz de Tenerife industrial zone.

### 2. Admissibility

Petition 0253/2004 declared admissible on 6 September 2004. Petition 0785/2004 declared admissible on 20 March 2005. Information requested from the Commission under Rule 192(4).

### **3. Commission reply for 0253/2004**, received on 17 March 2005

The Commission is aware of the concerns raised by the petitioner by means of three registered complaints concerning the above-mentioned issue.

Annex I.8 b) of Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment<sup>1</sup>, as amended by Directive 97/11/EC of 3 March 1997<sup>2</sup>, includes trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1350 tonnes among those projects which shall be made subject to an assessment in accordance with Articles 5 to 10 of the same Directive.

At the same time, any proposal deemed to require an assessment under Directive 85/337/EEC can also come under the assessment requirement of Article 6(3) of Directive 92/43/EEC on the protection of natural habitats and wild fauna and flora<sup>3</sup> if it is likely to significantly affect a Natura 2000 site. The industrial port of Granadilla is likely to affect at least four natural habitats and species (including two priority habitats and species which require Member States to establish a system of strict protection) hosted by the Sites of Community Importance (SIC) *Sebadales del sur de Tenerife* and *Montaña Roja*, in close proximity to the project development area. Accordingly, an evaluation of the environmental consequences is also required on the basis of Article 6(3) of Directive 92/43/EEC.

Both Directives are therefore applicable when examining the impact of the construction of a new sea port in the Granadilla industrial area in Tenerife.

On 24 November 2004, the Spanish authorities replied to a letter from the Commission requesting further information regarding concerns raised by the project, namely, that the original project has been down-sized to eliminate the likely effects on the above mentioned SCI. The resulting project is currently being examined by the Commission's services.

With regard to the petitioner's claim that there would be ERDF funding, the Commission can confirm that presently the project does not benefit from any Community co-financing, either from the Cohesion Fund or from the ERDF. However, the Commission is currently examining an application for aid for the project from the Spanish authorities in the light of all the relevant applicable Community legislation.

The Commission will keep the Committee on Petitions duly informed of any further developments relating to this petition.

### **4. Further Commission reply**, received on 20 October 2005

As detailed in the Commission's previous communication, the Commission services have been examining the compatibility of the new down-sized project submitted by the Spanish authorities on 24 November 2004 and its likely effects on the Sites of Community Importance (SIC), *Sebadales del sur de Tenerife* and *Montaña Roja*, in close proximity to the project development area.

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<sup>1</sup> OJ L 175, 5.7.1985, p. 40-48

<sup>2</sup> OJ L 73, 14.3.1997, p. 5-15

<sup>3</sup> OJ L 206, 22.7.1992, p. 7-50

In order to pursue the examination of the project, in July 2005 the Commission services requested the Spanish authorities to submit an updated assessment of alternatives that takes into account the downsizing of the project; a clear identification of the potential impacts of the revised project, including new elements unknown at the time of the original environmental impact assessment; and a list of compensatory measures for the revised project. Further information has now been received and is being examined by the Commission services.

Concerning the request for co-financing under the Structural Funds sent by the Spanish authorities, it is still under examination by the Commission services.

The Commission will keep the Committee on Petitions duly informed of any further developments relating to these petitions.

**5. Further Commission reply, received on 3 February 2006**

Further to the Commission's examination of the information submitted by the Spanish authorities regarding an updated assessment of alternatives of the downsized project; a clear identification of its potential impacts and a list of compensatory measures, Spain has formally informed of the need to develop the project for imperative reasons of overriding public interest and, consequently, has requested that the Commission deliver an Opinion pursuant to Article 6(4) of the Habitats Directive.

The Commission services are currently assessing the case. No decision has yet been taken by the Commission.

The Commission will keep the Committee on Petitions duly informed of any further developments relating to these petitions.