



22.4.2010

NOTICE TO MEMBERS

Subject: Petition 0179/2008 by Mr. Alberto Mayor Barajona (Spanish), on behalf of Ecologistas en Acción (Guadalajara), on alleged breaches of EC environmental legislation in connection with the approval of an urban development project concerning Vega del Henares area (Castilla-La Mancha)

1. Summary of petition

The petitioner criticizes the decision of the local and regional authorities of Castilla - La Mancha to approve the urban development project (Proyecto de Actuación Urbanística - PAU) of the Vega del Henares area without conducting an environmental impact assessment. The petitioner explains that the concerned area has a high historical value as it contains important archaeological remains and deserves to be protected. According to the petitioner, the PAU would imply re-classification of land and an unnecessary urban development. He asks for the European Parliament to investigate the situation as he believes that both the national and the EU legislation on environmental impact assessment have been breached.

2. Admissibility

Declared admissible on 1 July 2008. Information requested from Commission under Rule 202(6).

3. Commission reply, received on 22 April 2010.

The petitioner objects to the decision of the local and regional authorities to approve an urban development project ("Plan de Actuación Urbanística" – PAU) concerning the Vega de Henares area in the municipality of Guadalajara, in the province of Guadalajara, in the Autonomous Community of Castilla-La Mancha, Spain.

The petitioner highlights that this urban development project called "Proyecto de urbanización

del sector SNP ampliación del Ruiseñor" has been approved by the Spanish authorities without properly conducting an environmental impact assessment. The petitioner explains that the area concerned has a high historical value as it contains important archaeological remains and deserves to be protected. According to the petitioner, the PAU would imply re-classification of agricultural land for industrial use and unnecessary urban development. He complains that both the national and the EU legislation on environmental impact assessment have been breached by the Spanish authorities.

The services of the Commission have examined the information provided by the petitioner in light of the EU law that might be applicable to this case.

Directive 85/337/EEC¹, as amended by Directive 97/11/EC², Directive 2003/35/EC³ and Directive 2009/31/EC⁴, (known as the Environmental Impact Assessment or EIA Directive) makes provisions for the carrying out of an EIA for certain public and private projects.

The EIA Directive distinguishes between so-called Annex I projects, which must always be made subject to an EIA procedure, and Annex II projects where the Member States shall determine, through a case-by-case examination, and/or thresholds or criteria set in the national transposing legislation whether the project shall be made subject to an EIA. When a case-by-case examination is carried out, or thresholds or criteria are set, the relevant selection criteria set out in Annex III of the directive shall be taken into account. These include the characteristics of the project, its location and the characteristics of the potential impact.

Therefore, for projects included in Annex I the EIA procedure is mandatory. For projects included in Annex II Member States have to determine, before development consent is granted, if they are likely to have significant effects on the environment. This determination must be made available to the public.

It should be noted that, among the infrastructure projects, "Industrial state development projects" and "Urban development projects" are included in point 10 a) and 10 b) of Annex II of the EIA Directive.

The EIA procedure ensures that the environmental consequences of projects are identified and assessed before authorisation is given by the competent authority (known as the development consent). The public can give its opinion and all the consultations must be taken into consideration. The public should also be informed of the content of the development consent.

According to the information provided by the petitioner, a sort of environmental impact assessment was carried out by the local and regional authorities before granting the development consent for the project in question. However, the petitioner criticises the procedure, the timing and the content of this environmental assessment.

Regarding the EU Nature Directives (the Birds Directive 2009/147/EC⁵ and the Habitats

¹ OJ L 175, 05.07.1985

² OJ L 073, 14.03.1997

³ OJ L 156, 25.06.2003

⁴ OJ L 140, 05.06.2009

⁵ OJ L 20, 26.1.2010

Directive 92/43/EEC¹), it should be noted that they would be applicable if the project in question could have a significant effect on any site belonging to the Natura 2000 network. According to the information provided by the petitioner, it seems that the urban development in question does not affect any Natura 2000 site.

Conclusions

The Commission has requested information from the competent Spanish authorities concerning compliance with the relevant requirements under the EU environmental law applicable in this case. In particular, the Commission has asked the Spanish authorities how they have applied the provisions of the EIA Directive.

The Commission will keep the Committee on Petitions informed about any further developments in this case.

¹ OJ L 206, 22.07.1992