



24.6.2010

NOTICE TO MEMBERS

Subject: Petition 1186/2008 by Mariello Cao (Italian), bearing 43 signatures, on works being carried out in preparation for the G8 meeting at La Maddalena in Sardinia (Italy)

1. Summary of petition

The petitioner objects to the works being carried out at La Maddalena in Sardinia in preparation for the G8 summit scheduled for the summer of 2009. He maintains that Directives 97/11/EC on the assessments of the effects of certain public and private projects on the environment and 2003/4/EC on public access to environmental information are being infringed. He also refers to the high radioactivity levels in the area, where a former US navy base was formerly located. Furthermore, the La Maddalena archipelago is a site of Community interest (Directive 92/43/EEC). Referring to questions by Italian MEPs (for example E-2198/08), the petitioner is seeking infringement proceedings under Article 226 of the EU Treaty.

2. Admissibility

Declared admissible on 12 February 2009. Information requested from Commission under Rule 202(6).

3. Commission reply, received on 7 July 2009.

The petition

The petitioners refer to works being carried out at La Maddalena, on Sardinia, in preparation for the G8 summit scheduled for the summer of 2009.

The petitioners make reference to the Ordinance by the President of the Council of Ministers no. 3663 of 19 March 2008 which, it is alleged, is in breach of Community legislation on

environmental impact assessment (Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment¹, the "EIA" Directive) and on access to environmental information (Directive 2003/4/EC on public access to environmental information and repealing Council Directive 90/313/EEC²). They also refer to the fact that La Maddalena is a Site of Community Importance protected under Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora³, and they call upon the Commission to launch infringement proceedings against Italy under Art.226 of the EC Treaty.

The petitioners had addressed the same request both to the European Parliament and the Commission, which replied directly to the petitioners on 9 December 2008.

The Commission's comments on the petition

Having received a complaint on the simplified legislative regime established by the Ordinance referred to by the petitioners, in 2008, the Commission launched investigations into the matter. The Ordinance applies both to the works relating to the G8 summit in La Maddalena, and to the works relating to the 150th anniversary of Italian Unity. Based on the information available to the Commission, the latter will run up to 2011.

Exchanges of communications between the Commission and the Italian authorities took place, and the original text of the Ordinance was amended. However, even after the amendments, the Ordinance continued to allow construction works to commence prior to the conclusion of the environmental impact assessment (EIA) procedures. This is not in conformity with Directive 85/337/EEC. Therefore, on 19 March 2009, the Commission decided to issue a Reasoned Opinion against Italy under Article 226 of the Treaty. A reply from the Italian Government is currently awaited.

It should be noted that the above Reasoned Opinion relates purely to the breach of Directive 85/337/EEC. As regards Directives 2003/4/EC and 92/43/EEC, on the basis of the available information, no breach can be identified. In particular, the mere fact that works are planned, or being carried out, within a site designated under Directive 92/43/EEC, does not constitute, *per se*, a breach of Community law. These conclusions had already been transmitted to the petitioners in the reply sent by the Commission services on 9 December 2008.

Concerning the alleged high radioactivity levels in the area where a US navy base was formerly located, under Title II, Chapter 3 of the Euratom Treaty and secondary legislation, Member States need to ensure the health protection of their population against the dangers of ionising radiation, which includes the monitoring of the levels of radioactivity in the environment.

Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the health protection of the general public and workers against the dangers of ionizing radiation (OJ L 159 of 29/06/96, p.1), deals in its Article 53 with the situations leading to lasting exposure resulting from the after-effects of a radiological emergency or "a past practice". In

¹ OJ L 175, 5.7.1985, p. 40

² OJ L 41, 14.2.2003, p. 26

³ OJ L 206, 22.7.1992, p. 7

these cases, the directive obliges Member States to act, by ensuring that the area concerned is demarcated; monitored for exposure; appropriate intervention adapted to the situation; and that the access or use of land or buildings in the demarcated area is regulated.

The Commission is not in possession of incontrovertible evidence that the radioactivity levels in la Maddalena would imply continued excess exposure today in the area referred to by the petitioners.

Conclusion

In view of the information available, the Commission considers that there are no indications of a breach of the relevant provisions of the Euratom Treaty and secondary legislation.

The Commission will keep the Petitions Committee informed of the developments in the above-mentioned infringement procedure under the EC Treaty.

4. Commission reply, received on 6 June 2010.

On 23 March 2009, within the framework of infringement procedure 2008/4372, the Commission sent Italy a Reasoned Opinion for breach of Art.2(1) of the Environmental Assessment Directive, 85/337/EEC¹. Italy replied on 28 April 2009, communicating that Art.8(9) of the Ordinance of 19 March 2008 was repealed by Ordinance n.3756 of 15 April 2009. Since the non-conformities with environmental legislation addressed in the case were solved, the Commission decided to close the case on 8 October 2009.

¹ OJ L 175, 5.7.1985, p.40