



24.6.2010

NOTICE TO MEMBERS

Subject: Petition 0028/2009 by Mariano Martínez Fernández (Spanish), concerning expropriation of properties for the construction of a purification plant in Socovos, Albacete, Spain.

1. Summary of petition

The petitioner objects to the compulsory purchase of his property by the Socovos municipal authorities for the construction of a purification plant using Cohesion Fund appropriations. He indicates that, although his property was expropriated, the purification plant was finally not built on it. He also alleges that the plant was built on conservation land without an operating licence and allowed to proceed, notwithstanding the discovery of a medieval necropolis in the course of the works. In the light of these irregularities, the petitioner is seeking withdrawal from the project of Cohesion Fund payments.

2. Admissibility

Declared admissible on 21 April 2009. Information requested from Commission under Rule 202(6).

3. Commission reply, received on 25 March 2010.

By Decision C (2002) 755 of 19.04.2002, the Commission granted Cohesion fund support for the group of projects (N° C.C.I.: 2000ES16CPE058) "Waste Water Treatment and Water Supply in Segura River Basin - 2001". One of the individual projects included in the decision is the construction of a waste water treatment plant (WWTP) in the municipality of Socovos.

On 15 March 2004, after consultation and agreement of the Cohesion Fund Monitoring Committee, Spain sent a proposal for modification of the Decision which, amongst the changes, proposed the modification of the location of the WWTP of Socovos to another

location farther from the municipality, in order to reduce the impacts of the WWTP, especially in relation to possible air pollution by the diffusion of gases.

On 5 August 2004 by Decision C (2004) 3110, the proposed modification of the original Decision was approved by the Commission.

In August 2009, the Spanish Authorities sent the Final Report and the Final Request for payment of the project, including the Winding-up Declaration signed by the Auditor ("Interventor General") of the "Comunidad Autónoma de Castilla la Mancha". Following examination of the Final Report and of the Final Request for payment of the Cohesion Fund support, which had been submitted to the Commission, the Auditor concluded that the expenditure declared in the Final Request for payment is valid.

In the report annexed to the Winding-up Declaration, it is indicated that in the controls carried out by the auditors of the "Comunidad Autónoma de Castilla la Mancha" an error was detected concerning the expenditures related to expropriations of land which were considered ineligible. The non eligible expenditures were de-certified.

The Commission suggests to the applicant to contact the Spanish authorities, in particular the Management Authority in the Economy Ministry, Mrs Angeles Holgado (e-mail: AHolgado@sgpg.meh.es) or the Intermediate Body of "Comunidad Autónoma de Castilla la Mancha", Mr Ildefonso Martínez Jiménez (e-mail: imartinez@jccm.es) to clarify the specific details of this matter.

The Commission services are planning a visit to the project in March 2010, in order to verify the final location of the WWTP, as well as the permits needed for the construction of the plant. The Commission will inform the Petitions Committee of the results of its verification.

4. Commission reply, received on 24 June 2010.

Following the request of clarification from the Commission services, the Spanish authorities have sent the following documentation and explanations:

- Cooperation agreement between the "Consejería de obras públicas de la Junta de comunidades de Castilla-La Mancha" and the municipality of Socovos. By this agreement the municipality receives financial and technical support. The regional legislative decree 1/2004 establishes that after the signature of the agreement between the municipality and the regional authorities, a specific municipal authorisation is not required for the construction of the project agreed between the two parties.
- Both projects (original and modified) approved for co-financing by the Cohesion fund were submitted to the Environmental Authority. In both cases the Environmental Authority presented a report certifying that the Environmental Impact Assessment was not needed.
- Letter from the Mayor of the municipality of Socovos to the regional authorities requesting the change of location of the waste water treatment plant to the final location.

- The publication in the regional Official Journal of the approval of the modified project in the final location shows evidence of the declaration of public interest of the project and the need for urgent occupation of the land which initiates the expropriation process.
- In the report annexed to the Winding-up Declaration, it is indicated that in the controls carried out by the auditors of the "Comunidad Autónoma de Castilla la Mancha" an error was detected regarding the expenditures related to expropriations of land which were considered ineligible. The non eligible expenditures were withdrawn. The Managing Authority confirmed that the expenditures related to the expropriation have never been financed under the Cohesion fund.
- During the land preparation a necropolis was discovered in the area where the control building of the WWTP had been foreseen. The construction of the plant was stopped to carry out an archeological survey. The results of the survey required the transfer of the control building to another place. The Regional authority gave its consent to the construction of the project in the new location.

After examination of the dossiers related to Cohesion fund projects and taking into consideration the clarifications and further documentation sent by the Spanish authorities, the Commission has not identified an irregularity in the implementation of the project.

The Parliament could suggest to the petitioner to contact the Spanish authorities, in particular the Management Authority in the Economy Ministry, Mrs Angeles Holgado (e-mail: AHolgado@sgpg.meh.es) or the Intermediate Body of "Comunidad Autónoma de Castilla la Mancha", Mr Ildefonso Martínez Jiménez (e-mail: imartinez@jccm.es) to clarify the specific details of this matter.