



12.7.2010

NOTICE TO MEMBERS

Subject: **Petition 1116/2009 by H.L. (Polish), on an environmentally harmful sewage treatment plant in the town of Luzino in northern Poland**

1. Summary of petition

The petitioner claims that the sewage treatment plant in Luzino, which has been constructed in the immediate vicinity of a residential area, is in contravention of the applicable environmental provisions. He also notes that the associated odours and noise generated by the plant not only undermine the local population's quality of life, but also pose a health risk. As his appeal to the competent national authorities has been unsuccessful, he is calling for the European Parliament to intervene.

2. Admissibility

Declared admissible on 23 November 2009. Information requested from Commission under Rule 202(6).

3. Commission reply, received on 12 July 2010.

The Urban Waste-Water Treatment Directive 91/271/EEC¹ sets out environmental objectives for waste-water treatment, i.e. every treatment plant has to deliver certain numerical treatment objectives. However, it does not prescribe or prohibit any technology. It is the right and the responsibility of the Member States to choose the appropriate available technology; in the case of the use of EU funding instruments e.g. within the Cohesion Policy, the relevant governing principles and conditions have to be adhered to.

¹ OJ L 135, 30.5.1991, p. 40-52

On odour and noise nuisance, the Commission would observe that the provisions of the Waste Framework Directive, 2006/12/EC¹, apply to waste-waters where these are not covered by other Union or national legislation and that this directive requires the avoidance of noise and odour nuisances in the treatment of waste².

Applicable Union legislation as regards the evaluation and management of noise in the environment is Directive 2002/49/EC³. This directive leaves it to the discretion of the Member States to decide on the limit values for noise and other measures aimed at reducing noise. According to this directive, Member States must draw up strategic noise maps and action plans aimed at managing the ambient noise for certain areas with high exposure to noise, e.g. agglomerations of more than 250 000 inhabitants. According to the report received from the Polish authorities, the city of Luzino does not fall under the scope of the directive given the fact that it has around 7 000 inhabitants.

Another directive applicable for a project such as an extension of a waste treatment plant, as referred to by the petitioner, is Directive 85/337/EEC, as amended⁴ (EIA Directive). According to the EIA Directive, the project may fall within the scope of Annex II point 11(c) – waste-water treatment plants, (projects not included in Annex I), in connection with Annex II, point 13: "any change or extension of projects listed in Annex I or Annex II, already authorised, executed or in the process of being executed, which may have significant adverse effects on the environment".

For Annex II projects, Member States have to determine, either through a case-by-case examination or according to thresholds or criteria, whether the project is to be made subject to an assessment because of its likely significant effects on the environment, taking into account the relevant selection criteria set out in Annex III of the directive. If the competent authorities of the Member State determine that the project is likely to have significant effects on the environment, an environmental impact assessment (EIA) has to be carried out. When an EIA is carried out, both the direct and indirect effects of the project must be covered and the environmental information submitted by the developer to the competent authorities must include relevant information as stipulated by Article 5(3) of the EIA Directive. Moreover, in the EIA procedure, consultations with the public and other authorities likely to be concerned by reason of their specific environmental responsibilities have to take place and the decision for development consent should take into account the outcomes of the above consultations and information provided by the developer to the competent authorities as part of the EIA procedure. Finally, the decision to grant or refuse development consent has to be made available to the public.

The petitioner also makes reference to a grant which would have been unlawfully awarded by

¹ OJ L 114, 27.4.2006, p. 9-21

² Directive 2006/12/EC, OJ L 114, 27.4.2006, Article 4(1) "Member States shall take the necessary measures to ensure that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment, and in particular . . . (b) without causing a nuisance through noise or odours; . . ."

³ OJ L 189, 18.7.2002, p. 12-25

⁴ Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (EIA Directive) (OJ L 175, 5.7. 1985, p. 40) as amended by Directives 97/11/EC (OJ L 73, 14.3.1997, p. 5) and 2003/35/EC (OJ L 156, 25.6.2003, p.17).

the Marshall of the Province of Pomerania for the expansion of the plant. The petition lacks details regarding such a grant, therefore it is not known whether it is indeed related to EU funding.

Conclusions

On the basis of the information provided by the petitioner, the Commission has no reason to assume that the Urban Waste-Water Treatment, Environmental Noise and EIA Directives have not been correctly applied. Should the petitioner provide more detailed information enabling the Commission to assess these issues in relation to the above-mentioned directives, the Commission will be able to investigate this matter further.