NOTICE TO MEMBERS

- Petition 185/2004 by A. Terrazoni (presumed French), on behalf of ‘Association Contre le Grand Contournement d’Orléans et le massacre de la Sologne’, on a proposed bypass for Orléans
- Petition 261/2004 by Jean de la Forge (French), on behalf of 'Comité de Défense Rural Donnery/Fay-aux-Loges', on plans for a bypass for Orléans
- Petition 37/2005, by Mrs Laurence de la Martinière (French), on behalf of the association ADIPHCM, on the construction of a major motorway bypass round the city of Orléans
- Petition 580/2005 by Anne Joëlle Legourd (French), on behalf of the ‘Carillon de Combreux’ association, opposing the enlargement of an airport infrastructure in a ‘Natura 2000’ protected area
- Petition 883/2005 by Sylvie David-Rousseau (French), concerning non-compliance by the Loiret local authorities with Directives 79/409/EEC and 92/43/EEC concerning the protection of wild birds and the conservation of natural habitats
- Petition 117/2006 by Mrs Janine Amor, French, on behalf of the Selle/Bied Gatinais Environmental Protection Association, bearing five signatures, concerning the projected A19 Artény-Courtenay (Loiret) motorway and infringements of European environmental directives
- Petition 914/2007, by Claude Arenales, on behalf of the SEQV Association for the environmental quality of life, opposing the Orléans bypass and other road and airport infrastructural projects
- Petition 1282/2007, by Rémi Sallé (French), on behalf of the Association ‘4CASP’, on the environmental impact of a bridge project over the Loire, east of Orléans, in the context of the bypass around Orléans (‘le grand contournement’)
1. Summary of petitions

Petition 185/2004
The petitioner is concerned about the environmental implications of the proposed bypass for the city of Orléans. He says that three bridges would have to be built crossing the river Loire, a UNESCO world heritage site. The 300 km of proposed motorways would destroy large parts of the Sologne area and cut through land protected by Natura 2000. The large original project is deemed to have been divided up into small parts in order to avoid obligations to carry out an Environmental Impact Assessment according to Directive 97/11/EC and to consult the public about the project. Besides, he fears that Directive 93/37/EEC concerning the procedures for the award of public works contracts has been infringed.

Petition 261/2004
The petitioner considers that in the plans for a bypass around Orléans, the protection of flora and fauna according to 'Natura 2000' has been neglected. He says that the local authorities have divided up the project in order to avoid having to carry out an Environmental Impact Assessment under Directive 97/11/EC and a consultation of the public. European competition has thus also been bypassed, because what is really one big project was not advertised EU-wide.

Petition 37/2005
The petitioner notes that the General Council of the département of Loiret has decided to construct a major bypass for the Orléans urban area which would have disastrous consequences for the rural communities affected. The aim, she states, is both to facilitate lorry traffic round Orléans and to divert it from the centre to the outskirts. She claims that the Council is seeking to carry out this project without having to justify its decisions. She accuses it of 'salami tactics', dividing up the route into shorter segments so as to evade environmental impact assessments, which would be compulsory for the project as a whole. The politicians are also, she claims, avoiding informing the electors about the real impact of the bypass and the exorbitant cost of its completion.

Petition 580/2005
The petitioner, who is the chairman of an association, protests at an alleged infringement of Community rules on environmental impact assessment and the protection of fauna and flora in connection with the implementation of a project to extend certain road and airport infrastructures without any prior study of the impact of the works on a very large area (Orléans forest, Loire valley) which is protected under the Natura 2000 Programme.

Petition 883/2005
The petitioner maintains that three development projects being considered by the Loiret local council would infringe Directives 79/409/EEC and 92/43/EEC concerning the protection of wild birds and the conservation of natural habitats, that is to say, the Sully-sur-Loire bypass, the enlargement of the Saint-Denis de l'Hôtel airfield and the Orléans bypass. The petitioner maintains that they are likely to affect protected areas or areas eligible for inclusion in the Natura 2000 network and that the local authorities have failed to carry out environmental impact studies as required by Community legislation.
Petition 117/2006
The petitioner expresses concern regarding the irreversible environmental impact of the new A19 Artenay-Courtenay (Loiret) motorway, work on which is scheduled to take place from 2006-2009 involving the construction of a viaduct over 1 km long over the Loing Valley. According to the petitioner, the environmental impact survey fails to assess accurately the effects that the motorway will have, leaving most of the sensitive issues to be considered in a subsequent survey by the contractor. She also indicates that the A19 motorway will have consequences for the development of projected works along the Artenay-Meung sur Loire/Baule connection involving the construction of a further viaduct over the Loire, continuing into Sologne and returning eastwards and crossing the Loire again which will have a direct impact on a number of protected Natura 2000 sites. She is seeking immediate action by the European Parliament to halt these projects.

Petition 914/2007
The petitioner launches an appeal reiterating all the points raised in Petition 185/2004 and others opposing the public works projects being planned by the Loiret General Council. He encloses a CD which he claims contains proof of the existence of a ring-road mega project around the Orléans industrial and urban centre.

Petition 1282/2007
The petitioner challenges a project aiming to build a bridge over the Loire, East of Orléans, arguing that the both possible locations for this bridge, Chécy and Combleux, are part of protected areas under the EC Habitat and Birds Directives. According to the petitioner, the bridge would be the fourth over the Loire and would be part of the ring-road around Orléans ('le grand contournement'). The petitioner explains that, unlike the other three projects for bridges over the Loire, this fourth one is not promoted by the Conseil Général, but by the municipality ('l'agglomeration'). The petitioner maintains that the detrimental environmental impact of this fourth bridge project would be very high, especially as Chécy is an area exposed to flooding. The petitioner questions the need for this bridge and asks the European Parliament to look at this project in the context of the investigations concerning the ring-road around Orléans.

2. Admissibility

Information requested from the Commission under Rule 175(4).

Petition 580/2005 declared admissible on 14 October 2005
Petition 883/2005 declared admissible on 10 February 2006
Information requested from the Commission under Rule 192(4).
Petition 914/2007 declared admissible on 19 February 2008
Petition 1282/2007 declared admissible on 30 April 2008
3. Commission reply, received on 19 October 2004:

The petitioners allege that according to the General Council of the Loire region, the splitting up of the overall project concerning the building of the Orléans bypass, which includes the construction of three bridges over the River Loire, some 300 km of motorways and expressways and some new four-lane roads, offers the advantage of being able to avoid European tendering procedures, thereby favouring local businesses, which had apparently already held public demonstrations to that effect (see press article 'the central republic' of Tuesday, 25 June 2002 - article not sent to the Commission).

The documents enclosed with Petition 185/2004 do not lead to the conclusion that Article 6(4) of Council Directive 93/37/EEC of 14 June 1993 concerning the coordination of procedures for the award of public works contracts¹ may have been breached. The said paragraph stipulates that 'no work or contract may be split up with the intention of avoiding the application of this Directive'.

The only public notice of invitation to tender forwarded by the petitioners, dated 18 December 2003, is that which was published nationally. The subject of the invitation is 'topographic surveys relating to Loire crossings'. It is divided into three lots and must be described as a public service contract within the meaning of Council Directive 92/50/EEC of 18 June 1992 relating to the coordination of procedures for the award of public service contracts, as amended by Directive 97/52/EC².

According to research conducted in the TED database of the Office for Official Publications of the European Communities (OOPEC), this notice was apparently not only published nationally, but also in the Official Journal of the European Union, under reference 2003/S 243-216445. Hence, for this service contract, Article 15(2) and Article 7 of Directive 92/50/EEC as amended by Directive 97/52/EC, which stipulate that a notice must be published in the Official Journal of the European Union for service contracts the value of which is not less than 200 000 special drawing rights, appear not to have been infringed.

Lastly, it has also emerged from the TED database that the A19 motorway, which is an important part of the Orléans bypass project disputed by the petitioner, was the subject of two publications in the Official Journal of the European Union (references 2003/S 88-078517 and 2003/S 54-046710) with a view to awarding a public works concession for the design, construction, maintenance and operation, under the responsibility of the concessionnaire, of the Artenay-Courtenay section of the A19 motorway (approx. 100 km). It would therefore appear that Articles 3(1) and 11(3) of Directive 93/37/EEC concerning the requirement to publish a notice of public works concession have not been infringed, at least with regard to the concession of the Artenay-Courtenay section of the A19 motorway.

In the absence of any evidence from the petitioners of a possible infringement of the directives concerning public contracts, the Commission cannot conclude that there has been a breach of Community law.

The petitioners suggest that the splitting of the project also results in an infringement of the provisions of Directive 85/337/EEC as amended by Directive 97/11/EC (the EIA Directive). Petition 185/2004 encloses a relevant extract from this directive. The directive requires that, for projects to which it applies and which are likely to have significant environmental effects, an environmental impact assessment (EIA) must be carried out before a decision is taken on an application for development consent. That decision must take into consideration the environmental information which has been provided as well as the results of consultation.

It is clear from the directive itself (which, as the petitioner points out, refers to the ‘whole project’) and from the case law of the European Court of Justice that, for the purposes of the EIA, projects have to be viewed as a whole and cannot be split so as to fall below thresholds which would remove the need for EIA. It is not, however, clear from the information provided by the petitioner how the EIA for the project in question is being approached or whether the project has received development consent. The facts as presented do not appear to indicate any infringement of the directive for the Commission to investigate.

In relation to Directive 92/43/EEC (the Habitats Directive) the petitioner mentions the possibility that the project would affect a number of sites proposed by France under this directive but no evidence is given. The Commission will contact the petitioner and request him to provide additional information to enable it to make a proper assessment of the situation.

4. Further Commission reply, received on 20 October 2005:

'These petitions condemn the project for a bypass around Orléans, concerning the construction of three bridges over the River Loire, some 300 km of motorways and expressways and some new four-lane roads. The bypass project would be likely to affect two proposed sites of Community importance – ‘La Sologne’ (FR 2402001) and the ‘Vallée de la Loire de Tavers à Belleville-sur-Loire’ (FR2400528), as well as a special protection area (SPA) for wild birds, ‘Vallée de la Loire et du Loiret’ (FR2410017) and two important areas for the conservation of wild birds (IBA).

The Commission decided to open an investigation and sent the French authorities a request for information in November 2004. This request concerned the nature, exact scale and degree of progress of the project, as well as information concerning compliance with Directives 79/409/EEC on the conservation of wild birds, 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 97/11/EEC.

At the ‘package’ meeting concerning environment-related preliminary investigations in January 2005, and by letter sent to the Commission in May 2005, the French authorities stated that the General Council of the Loire region had not confirmed its intention to go ahead with
the overall Orléans bypass project. The authorities said that three specific operations would take place: the project to divert the RD921 in Fay-aux-Loges and two projects relating to bridges across two sections of the River Loire. The project to divert the RD921 would concern the special protection area FR 2410018 'Forêt d'Orléans'. The study concerning the impact of the project on this SPA was forwarded to the Commission in May 2005. The other two projects were still at a preliminary decision-making stage. The impact studies for these two projects were currently being drawn up and any important areas for the conservation of wild birds which might possibly be affected by these projects had not yet been identified. The French authorities undertook to inform the Commission of the progress of these three operations and their impact on the Community areas concerned, as well as of the classification as SPAs of the two IBAs concerned (Marlié et Baule).

The Commission will keep the Committee on Petitions informed of any further developments'.

5. **Commission reply** received on 12 May 2006 to Petition 883/2005:

The petition condemns three projects being carried out by the Loiret local council:

1. the major Orléans bypass and the project to build a bridge across the Loire to the west of Jargeau (a project which is also the subject of Petitions 185/2004, 261/2004 and 37/2005);

2. the project to extend the Saint Denis de l'Hôtel airfield, and

3. the project to divert heavy goods vehicles from the Sully municipality.

These projects could have an impact on two sites of Community importance, 'La Sologne' (FR 2402001) and 'La Loire' (FR 2400528), and also on a special protection area (SPA) for wild birds, the 'Vallee de la Loire et du Loiret' (FR 2410017).

The Commission's comments

As regards the Orléans bypass project, the Commission opened its own investigation in 2004, further to Petition 185/2004. As pointed out in the last reply concerning Petitions 185/2004, 261/2004 and 37/2005, the investigation revealed that, to date, the Loiret local council has not confirmed its intention of completing the overall Orléans bypass project. The authorities in question have stated that three specific projects will be completed: the project to divert the RD921 in Fay-aux-Loges, and two projects to cross the Loire in two places. The Loire bridge project to the west of Jargeau, condemned by this petitioner, is therefore covered by the above-mentioned investigation. The project to divert the RD921, meanwhile, will concern the SPA FR 2410018 'Forêt d'Orléans'. The impact study concerning the project's impact on this SPA is currently being assessed by the Commission. The other two projects are still at a preliminary decision-making stage. The impact studies for these two projects are being drawn up; the important areas for the conservation of the wild birds which will possibly be affected by these projects have not yet been identified.
A technical meeting between the French authorities and the Commission will shortly be held in order to clarify (1) the adequacy of the impact study concerning the Orléans bypass project; (2) the measures proposed to soften the impact; and (3) whether or not the project is an overall project.

As part of the preparation for this meeting, and during the meeting itself, the Commission will also question the French authorities on the nature, exact scope and stage of completion of the other two projects condemned by this petitioner (project to extend the Saint Denis de l'Hôtel airfield and project to divert heavy goods vehicles from the Sully municipality); it will also query their compliance with the provisions of Directives 79/409/EEC on the conservation of wild birds, 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, and 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 97/11/EEC.

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

6. **Commission reply** received on 4 July 2006:

As indicated in its previous answer, the Commission has decided to instigate an investigation and has sent two requests for information to the French authorities concerning the nature and the exact scope of the project, progress to date and compliance with the provisions of Directives 79/409/EEC on the conservation of wild birds, 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, and 85/337/EEC on the assessment of certain public and private projects on the environment as amended by Directive 97/11/EEC. The matter was discussed at the ‘package’ meetings regarding environmental pre-litigation.

At the ‘package’ meeting of 20 January 2006, the French authorities and the Commission agreed to hold a technical meeting in September 2006 to clarify (1) the adequacy of the environmental impact survey, (2) the environmental impact attenuation measures posed and (3) the global nature or otherwise of the project condemned by the petitioners.

Petition 117/2006 concerning the projected Artenay-Courtenay A19 motorway, together with Petitions 580/2005 and 883/2005, is also being investigated at the instigation of the Commission.

The Commission will keep the Committee on Petitions informed of further developments.

7. **Commission reply** received on 20 March 2009:


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3 OJ L 175, 5.7.1985, p. 40.
5 OJ L 175, 5.7.1985, p. 40.
All these petitions complain about a set of motorway and road-infrastructure projects to be carried out in and around the agglomeration of Orléans (department of the Loiret, France). That is why this written communication deals with all these petitions together. Indeed, Parliament's Committee on Petitions has itself consistently dealt with these petitions together, as reflected in its report of 20 November 2007 on the fact-finding mission undertaken to Paris and the Loiret on 1 and 2 October 2007 in connection with Petitions 185/2004, 261/2004, 37/2005, 580/2005, 883/2005, 117/2006 and 914/2007 (Petition 1282/2007 was not submitted until December 2007).


With a view to providing the Committee on Petitions with a full summary of the technical and legal assessment which led to that conclusion, this communication contains an annex which summarises the subject of each of the petitions concerned (section I), indicates which provisions of Community law are applicable (section II) and explains how the conclusions of the technical and legal analysis were arrived at (section III).

8. Commission reply received on 2 September 2010:


The infrastructure projects concerned are as follows:

(‘SCI’) and the ‘Vallee de la Loire et du Loiret’ special protection area (SPA). The petitioners also argue that all of these infrastructure projects should be subject to a single environmental impact assessment on the grounds that they are being carried out to create a ‘major bypass around Orléans’.

- Without referring to the alleged ‘major bypass around Orléans’ project, the petitioners (Petitions 914/2007, 1282/2007) condemn the project to build two bridges over the Loire at Jargeau and Sully-sur-Loire on the grounds that they would have a significant impact on the ‘Vallée de la Loire de Tavers à Bellville-sur-Loire’ SCI and the ‘Vallee de la Loire et du Loiret’ SPA.

- The petitioners (Petitions 580/2005, 883/2005, 914/2007) condemn the extension of the Saint-Denis-de-l'Hôtel airfield carried out in 2003 on the grounds that it was not preceded by a public inquiry and that it would, in particular, affect the ‘Forêt d’Orléans’ SPA and the species which live there. The petitioners also complain about a new extension project to convert the airfield into an airport.

- One petitioner (Petition 117/2006) complains about the project to build the A19 motorway between Artenay and Courtenay (a 101 km motorway linking the A10 and A6 motorways) on the grounds that it would have a significant impact on surface and underground aquifers and sources of drinking water and affect the ‘Marais de Sceaux et Mignerette’ SCI and the Montargis forest, endangering the bats which live there.

No breach of Community law has occurred.


a) As regards the Orléans bypass project, the extension of the Saint-Denis-de-l'Hôtel airfield, the construction of the A19 motorway and the Fay-aux-Loges rerouting project, the Commission asks the honourable members of the European Parliament’s Committee on Petitions to refer to the previous written communication (January 2009), in which it set out in detail the reasons why it considers that none of these projects contravenes Community law, including Council Directives 92/43/EEC and 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (hereinafter: ‘Directive 85/337/EEC’).

The Commission states that it has not received any new information that would contradict its earlier conclusions. Moreover, concerning the Fay-aux-Loges rerouting project (Petition 261/2004), the Commission would like to draw the attention of the honourable members of the European Parliament’s Committee on Petitions to the fact that its conclusions, as set out in the previous written communication, have since been confirmed by the highest administrative jurisdiction in France. First, the Administrative Court in Orléans, in a case referred to it by the Municipality of Donnery (hereinafter: ‘the plaintiff’), seeking the annulment of the prefectural order on the grounds of abuse of power, ruled, on 6 February 2007, that the order...
was not legally flawed in either form or substance. Subsequently, the plaintiff referred the matter to the Administrative Court of Appeal in Nantes, which ruled, on 4 March 2008, that there had been no cause to annul on grounds of abuse of power either the judgment of the administrative court or the prefectural order. In particular, the appeal judge stated that the environmental impact assessment (‘EIA’) attached to the file of the preliminary public inquiry carried out in the context of this road project had been complete and accurate, that the project would not affect either directly or indirectly the ‘Forêt d’Orléans’ SPA and that the inquiry prior to the public utility assessment had been conducted in accordance with the relevant legal requirements. Third, the plaintiff then referred the matter to the Council of State, which ruled, on 21 September 2009, that there were no grounds to annul the judgment of 4 March 2008.

b) As regards the project to build bridges over the Loire at Meung-sur-Loire, Sully-sur-Loire, Jargeau and Chécy/Combleux (east of the Orléans agglomeration), the Commission would ask the honourable members of the European Parliament’s Committee on Petitions to refer to the earlier written communication (January 2009), in which it pointed out that, at the moment, in the absence of any administrative act authorising their implementation, none of these projects could be suspected of resulting in a violation of Directives 79/409/EEC, 92/43/EEC and 85/337/EEC.

Indeed, the French authorities recently confirmed to the Commission that none of these bridges had yet been authorised and that none of the public utility assessment files had been drawn up. The procedures which would lead to a prefectural order granting authorisation are still at a preliminary stage, so it is not certain whether the bridges will actually be built. It is clear from the most recent information received from the French authorities that the procedural requirements arising from Directives 92/43/EEC and 85/337/EEC (e.g. the need to produce an EIA and a Natura 2000 study) seem to have been complied with in full. Indeed, the French authorities recently told the Commission that the EIAs for each of the three bridge projects still need to be finalised and supplemented by a study (also currently underway) to determine whether the cumulative effect of these projects is likely to have a significant impact on the ‘Vallée de la Loire de Tavers à Belleville-sur-Loire’ SCI and the ‘Vallée de la Loire du Loiret’ SPA.

As regards the Chécy/Combleux bridge, the Commission would point out that the fact that the project is mentioned in the territorial planning scheme (‘TPS’) for the Orléans-Val de Loire agglomeration adopted on 18 December 2008 (a development plan), does not in any way mean that the bridge will actually be built. A TPS is simply a joint municipal strategic planning document setting out general guidelines for long-term territorial planning. Its function is not to authorise this or that project.

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1 Judgment of the Administrative Court in Orléans No 05-3238 and 05-3503 of 6 February 2007.
2 Judgment of the Administrative Court of Appeal in Nantes No 07NT00903 of 4 March 2008.
ANNEX

to the Commission communication

cconcerning petitions


After briefly outlining the precise subject of each of the petitions concerned, this annex to the written communication will provide a technical and legal analysis of the petitioners’ complaints drawn up by the Commission’s Directorate-General for the Environment (DG ENV).


Petitions 185/2004, 261/2004 and 37/2004, submitted, respectively, by Mr A. Terrazoni, by Mr de la Forge, chair of the Comité de Défense Rural Donnery/Fay-aux-Loges, and by Mrs Laurence de la Martinière of the association ADIPHCM

The petitioners complain about a project to construct a major bypass around Orléans which would involve the building of 300 km of motorways, expressways and roads open to international traffic and of three bridges over the Loire at Meung-sur-Loire, Jargeau and Sully-sur-Loire. In addition to the fact that this project would affect a number of Natura 2000 sites, including the site of Community importance (SCI) ‘Vallée de la Loire de Tavers à Belleville-sur-Loire’ and the special protection area (SPA) ‘Vallée de la Loire du Loiret’, the petitioners claim that the individual projects make up a single major undertaking which should therefore have been the subject of a single, integrated environmental impact study, and that the public has not been informed about the projects in question.

Petition 580/2005 submitted by Mrs Anne Joëlle Legourg, chair of the association ‘Le Carillon de Combreux’

The petitioner complains, firstly, about a project to extend the Saint-Denis-de-l’Hôtel airfield, which she claims is part of the overall project to build a major bypass around Orléans (as referred to above). The project would involve work to lengthen and strengthen the runway and modernise the airfield facilities. According to the petitioner, in addition to the fact that there is to be no public inquiry into the project the extension would in particular affect the SPA ‘Forêt d’Orléans’ and the species which live there, including the osprey, on the grounds that planes taking off and landing would pass over the SPA and that net traps and gunshots would be used to keep the birds away from the airport.

The petitioner also complains about a new extension project to convert the airfield into an airport.
**Petition 883/2005 submitted by Mrs Sylvie David-Rousseau**

As in the case of Petitions 185/2004, 261/2004, 37/2005 and 580/2005, the petitioner complains about the project to build a major bypass around Orléans, to extend the Saint-Denis-de-l’Hôtel airfield and to build a bridge over the Loire at Jargeau, on the grounds that it would affect the SCIs and SPAs referred to above. In addition, the petitioner complains about the proposal to divert heavy goods vehicles through Sully-sur-Loire, on the grounds that it would affect the SPA ‘Vallée de la Loire du Loiret’.

**Petition 117/2006 submitted by Mrs Janine Ben Amor, chair of the Selle/Bied Gatinais Environmental Protection Association**

The petitioner complains about the project to build the A19 motorway between Artenay and Courtenay (length: 101 km), linking the A10 and A6 motorways, on the grounds that this project would (i) have a significant impact on surface and underground aquifers and sources of drinking water (ii) affect the SCI ‘Marais de Sceaux et Mignerette’ by creating a risk that it would dry out and (iii) lead to trees being cleared in the Montargis forest, endangering the bats which live there.

**Petition 914/2007 submitted by Mr Claude Arenales, Secretary-General of the Association for the Safeguarding of the Environment and Quality of Life**

As in the case of Petitions 185/2004, 261/2004, 37/2005, 580/2005, 883/2005 and 117/2006, the petitioner complains about the project to build a major bypass around Orléans, the project to extend the Saint-Denis-de-l’Hôtel airfield and the project to build the A19 motorway link. In addition, the petitioner complains about the project to build a bridge over the Loire at Sully-sur-Loire, on the grounds that it would affect the SPA ‘Vallée de la Loire du Loiret’.

**Petition 1282/2007 submitted by Mr Rémi Sallé, chair of the Association 4CASP (Chécy)**

The petitioner complains about the project to build a bridge over the Loire in Chécy, to the east of the agglomeration of Orléans, on the grounds that this project would (i) have a significant impact on a drinking water supply area and on local groundwater as a whole, and (ii) affect the SPA ‘Vallée de la Loire du Loiret’ and the SCI ‘Vallée de la Loire de Tavers à Bellville-sur-Loire’.


Before presenting the results of the technical and legal analyses of the petitions (see section III of this written communication), attention should be drawn to the main instruments and provisions of Community environmental law applicable to the projects which are the subject of those petitions.

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Given that the areas which, according to the petitioners, would be affected by the infrastructure projects in question are SCIs and SPAs designated by France, under Directives 79/409/EEC and 92/43/EEC, as parts of the Natura 2000 network, Directives 79/409/EEC and 92/43/EEC apply.

In particular, we will refer to Article 6(3) and (4) of Directive 92/43/EEC.  

- Article 6(3) stipulates that any plan or project not directly connected with the management of the SCI and/or the SPA concerned, but which is likely to have a significant impact on that SCI or SPA, must be the subject of an appropriate prior assessment of its implications, in the light of the SCI’s or SPA’s conservation objectives, and of a public consultation.

  The competent authorities may authorise the project or plan only after having ascertained that it will not adversely affect the integrity of the SCI or SPA concerned.

- However, pursuant to Article 6(4) even if a negative assessment is given (to the effect that the project or plan could adversely affect the integrity of the SCI or SPA concerned) the competent authorities may authorise the plan or project concerned, provided that they can demonstrate (i) the lack of alternative solutions, (ii) that the plan or project is justified for imperative reasons of overriding public interest (including of an economic nature), and (iii) that compensatory measures are being taken to ensure that the overall coherence of the Natura 2000 network is being protected.

Mention should also be made of Article 12(1) and (4) of Directive 92/43/EEC.

- Article 12(1) stipulates that the Member States must establish a system of strict protection for the animal species listed in Annex IV (a) to Directive 92/43/EEC, regardless of whether they are present in a SCI or not. Such a system calls, for example, for the implementation of measures to prevent deliberate disturbance of the species in question and the destruction of resting places.

- Article 12(4) stipulates that the Member States must establish a monitoring system in order to ensure that the incidental capture and killing of the animal species listed in Annex IV(a) does not have a significant negative impact on the species concerned.


Pursuant to Article 2(1) of Directive 85/337/EEC, the competent authorities may not authorise a project which may have significant effects on the environment unless an environmental impact assessment (EIA) has first been carried out.

1 Article 7 of Directive 92/43/EEC stipulates that obligations arising under Article 6(2) to (4) also apply to projects or plans likely to pollute or deteriorate the habitats of wild bird species or to disturb those species, insofar as that impact has a significant effect on the conservation of the species in question.
Pursuant to Article 4(1) of the directive, all the projects listed in Annex I to the directive (with the exception of those which are referred to in Article 1(2) or which enjoy a derogation pursuant to Article 2(3)) must be the subject of an EIA before they can be authorised. The types of project concerned include (i) motorways, (ii) express roads, (iii) new roads with four or more lanes and a length of at least 10 km, (iv) projects to straighten/broaden an existing road with at least two lanes in order to transform it into a road with four lanes or more, if the straightened/widened section has a length of at least 10 km, and (v) airports with a basic runway length of at least 2100 metres.

As regards the projects referred to in Annex II to Directive 85/337/EEC, including the infrastructure projects not listed in Annex I and airport projects, it is the competent authorities, acting pursuant to Article 4(2), who determine, on a case-by-case basis or on the basis of pre-established criteria, whether the project in question must be the subject of a prior EIA. However, those authorities do not have complete discretion, since, pursuant to Article 4(3), that decision must be based on the criteria set out in Annex III to Directive 85/337/EEC. In other words, the competent authorities must, if necessary, take account of the characteristics of the project, its location and the nature of the potential environmental impact.

It should be noted that the public, amongst other groups, has a role to play in that it has the right to be informed and consulted on the project, and to express an opinion. The competent authorities must 'take into consideration' any opinion expressed, inform the public of their final decision to authorise the project concerned or not and explain the reasons for that decision. Members of the public who feel sufficiently concerned to take action have the right to lodge an appeal with the courts challenging a project authorisation decision.

The case of the UNESCO Convention concerning the protection of the World Cultural and Natural Heritage (1972)

Many of the petitioners also invoke the need to comply with the Convention concerning the protection of the World Cultural and Natural Heritage adopted by the United Nations Educational, Scientific and Cultural Organisation (Paris, 1972). Under the terms of that Convention, in 2000 the section of the Loire valley between Sully-sur-Loire and Chalonnes was included on the World Heritage List on account of its exceptional natural and cultural landscape. In that connection, the petitioners argue that the French authorities cannot authorise the construction of bridges over the Loire on the grounds that, in violation of the Convention, they would adversely affect the landscape of the Loire valley.

DG ENV wishes to point out that the European Community is not a party to the Convention, so that the Commission has no competence as regards its implementation. That is a matter for the French State alone.

III. Technical and legal analysis, in the light of the applicable provisions of

1 http://whc.unesco.org/fr/list/933/

On the basis of the information supplied by the petitioners and the French authorities, and in the light of the applicable provisions of the Community law, DG ENV has carried out a technical and legal analysis of all the projects to which the petitioners raise objections.


No project to build a major bypass around Orléans

Despite the petitioners' claims, on several occasions the French authorities have informed DG ENV that there is no project, at departmental, regional or State level, to build a major bypass around Orléans.

The infrastructure projects, which are the subject of the petitions referred to above, are not projects which form part of a broader plan to build a bypass and they must be considered individually. In particular, there are no practical links between the individual projects.

Accordingly, DG ENV wishes to emphasise that the projects could not be the subject of a single EIA, because they are not parts of a single, larger-scale project, but are in fact separate from each other.

III.2 Extension of the Saint-Denis-de-l'Hôtel airfield and future project to build an airport of national or even European dimensions (Petitions 580/2005, 883/2005 and 914/2007)

The airfield extension was the subject of an EIA and a public consultation procedure

Contrary to the petitioners’ claims, the extension of the Saint-Denis-de-l'Hôtel airfield carried out in 2003 was the subject of a public consultation procedure and of an EIA, in accordance with the provisions of Directive 85/337/EEC.

In that connection, DG ENV wishes to emphasise that the extension project involved lengthening the runway by 392 metres, from 1000 to 1392 metres, so that an EIA was required only if the competent authorities regarded it as necessary pursuant to Article 4(2) and (3) of Directive 85/337/EEC (referred to above).

No significant impact on species of wild birds

What is more, the technical analysis of the information provided by the French authorities shows that the airfield has no significant impact on the wild bird species present in the SPAs ‘Forêt d'Orléans’ and ‘Vallée de la Loire du Loiret’. In other words, the airfield poses no threat to those species’ resting and breeding areas and does not disturb them in any significant way. In that connection, the risk of collision, as measured at national level, is very low, since
the overwhelming majority of such collisions take place less than 15 metres above the ground. The competent authorities have installed scaring devices designed to prevent wild birds from flying over the airfield. Moreover, the close monitoring of the SPA ‘Forêt d'Orléans’ carried out as part of the national plan to restore osprey numbers (2006) revealed no specific problems affecting that species. In short, no breaches of Directives 79/409/EEC and 92/43/EEC (including, in particular, Article 6(3) thereof) have occurred.

No future extension project

As regards the possible further extension of the Saint-Denis-de-l'Hôtel airfield in order to turn it into an airport of national or even European dimensions (given its size, the airfield is currently used only by small tourist, sport and business aircraft) the French authorities have repeatedly told DG ENV that no such project is planned.


In spite of the petitioners' claims, the technical analysis of the information provided by the French authorities shows that the A19 motorway project (a 101 km-long stretch of motorway linking the A6 and A10 motorways)\(^1\) has had no significant impact on any SCI or on any protected animal species and has not affected any bodies of underground or surface water, including sources of drinking water.

What is more, the project was the subject of a comprehensive EIA and a public consultation procedure, in accordance with the requirements of Directive 85/337/EEC.

As regards the protection of SCIs:\n
No direct impact

By way of a reminder, the route of the A19 motorway project does not cross any SCIs, but passes close to the SCIs ‘Marais de Sceaux et de Mignerette’ and ‘Sites à chauve-souris de l'Est du Loiret’, hence the lack of any direct impact. In short, no breach of Article 6(3) and (4) of Directive 92/43/EEC has occurred.

No significant indirect impact

As regards the SCI ‘Marais de Sceaux et de Mignerette’

The technical analysis of the additional documentation carried out by the project manager on the basis of the Law on water and the Schedule of State Environmental Undertakings\(^2\) shows that the motorway project will no have significant impact on natural habitats and piscicultural and other species - no risk of excessive drainage, no reduction in flooding potential, no contamination of surface waters, no significant impact on the transfer of water from underground bodies of water to wetland areas in the SCI - by virtue of the preventive

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\(^1\) The A19 motorway is due to open in summer 2009.

\(^2\) By way of a reminder, the Schedule of State Environmental Undertakings is binding on the concessionaire.
measures planned for the construction and operation phases (suitable bridges over the Petit Fusain and Maurepas streams, collection of rainwater and other substances present on the road surface). In other words, the A19 motorway project poses no threat to the attainment of the SCI’s conservation objectives. No breach of Directive 92/43/EEC has thus occurred.

As regards the SCI ‘Sites à chauve-souris de l'Est du Loiret’

The route of the A19 motorway will pass at a distance of 1 km from several bat roosts, including those situated in the municipality of Chantecoq which are home to four species of bat of Community interest (the greater horseshoe bat, Geoffroy’s bat, the greater mouse-eared bat and Bechstein’s bat). In addition, the valleys of Saint-Jacques and La Claris, situated along the route of the motorway, are potential migration corridors and hunting areas.

The technical analysis of the documents and information provided by the French authorities shows that the A19 motorway project will have no significant impact on either the caves/roosts used by bats or on the bats themselves. What is more, prevention and risk-reduction measures are being and will be taken during the construction (limited lighting, bat monitoring arrangements, etc.) and operation (plant barrier enabling the bats to cross the motorway without risk of collision) phases. No breach of Directive 92/43/EEC has therefore occurred.

As regards the protection of bats present in the Forêt de Montargis:

No significant direct or indirect impact

Although the Forêt de Montargis has not itself been designated an SCI, it is home to bats of Community interest.

However, although the A19 motorway passes close to the Forêt de Montargis, the technical analysis of the documents and information provided by the French authorities shows that the motorway project will have no significant impact on the bat population, by virtue of the prevention and risk-reduction measures which have been taken (forest clearance limited to 50 ha and carried out only in winter, no destruction of roosts, very low risk of collisions following the construction of banks and plant barriers, limited lighting during the construction phase, etc.). In short, no breach of Article 12 of Directive 92/43/EEC has occurred.

III.4 The Fay-aux-Loges rerouting project (Petition 261/2004)

No direct or indirect impact on the Forêt d’Orléans or on any protected species

In spite of the petitioners’ claims, the technical analysis of the information provided by the French authorities shows that the Fay-aux-Loges rerouting project (proposed two-lane road with a total width of 15 metres and a length of 6.3 km), which was the subject of a comprehensive EIA and a public consultation procedure in accordance with the requirements of Directive 85/337/EEC (as referred to above), will have no impact on the SPA ‘Forêt 1

1 By way of a reminder, the administrative magistrate found that the EIA carried out prior to the granting of authorisation for the project was comprehensive.
By way of a reminder, the proposed route does not cross either SCIs or SPAs, hence the absence of any direct impact. As regards the Puits Branger, La Queue, Canal d’Orléans and Vallée du Cens sectors, which would be affected by the rerouting project, these are artificial wetland areas of no major ornithological interest. Accordingly, no breach of Directive 92/43/EEC has occurred.


The petitioners challenge the projects to build four bridges over the Loire (and the related road rerouting projects), i.e. the bridges at Meung-sur-Loire, Sully-sur-Loire and Jargeau and a proposed bridge situated to the east of the agglomeration of Orléans (the Chécy/Combleux bridge project), on the grounds that they would have a significant impact on the SCI ‘Vallée de la Loire de Tavers à Belleville-sur-Loire’ and the SPA ‘Vallée de la Loire du Loiret’.

DG ENV points out that none of these projects has yet been authorised. The procedures which would lead to a prefectural order granting authorisation are still at an early stage. Accordingly, no breach of Community law, including Directives 85/337/EEC and 92/42/EEC, has occurred on the basis of the provisions of those two instruments referred to in section II of this written communication.

The bridges at Meung-sur-Loire, Sully-sur-Loire and Jargeau

The layout of the bridges at Meung-sur-Loire, Sully-sur-Loire and Jargeau (and the related new road sections) have been fixed. However, the projects themselves have not yet been authorised.

In particular, before authorisation can be given by the prefect the EIAs must be finalised and supplemented by a study to determine whether the cumulative effect of building the three bridges is likely to have a significant impact on the SCI 'Vallée de la Loire de Tavers à Belleville-sur-Loire' and the SPA 'Vallée de la Loire du Loiret'. The French authorities have informed DG ENV that the result of the tender procedure for that supplementary study was notified to the successful tenderer on 25 June 2008 and that the study itself will not be completed until late 2009.

Once submitted, the conclusions of that supplementary study will be incorporated into the EIAs carried out for each of the bridge projects which will themselves form part of the public utility assessment files constituted for each project. Public inquiries will thus be carried out, during which members of the public will have the opportunity to express opinions. It is only after those public inquiries that the prefect will decide whether or not to adopt orders authorising the bridge projects.

In short, at present the bridges are only at the project stage (no decision has even yet been taken on the type of works involved). The authorisation procedures are only at a preliminary stage and there is not guarantee that the bridges will actually be built. Accordingly, no breach of Community law, including Directives 85/337/EEC and 92/42/EEC, has occurred on the basis of the provisions of those two instruments referred to in section II of this written communication.

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1 As a result of the administrative appeal lodged by the municipality of Donnery, work on the Fay-aux-Loges rerouting project has not yet started, even though authorisation was given in September 2005.
The Chécy/Combleux bridge

DG ENV would like to emphasise that no authorisation procedure for a bridge over the Loire to the east of the agglomeration of Orléans has yet been started.

Thus far, such a project has been mentioned only in the territorial planning scheme (TPS) for the Orléans-Val de Loire agglomeration. Accordingly, the following should be pointed out: Firstly, the Orléans-Val de Loire TPS was the subject of a public inquiry held from 15 September to 15 October 2008. The inquiry committee published its report on 19 November 2008. In that report it expresses reservations concerning the Chécy/Combleux bridge project, suggesting that building the bridge would adversely affect the biological quality of the Loire. The TPS was due to be approved in late December 2008.

Secondly, a TPS is not a prescriptive document in that it does not oblige the competent authorities to implement the infrastructure projects, including the Chécy/Combleux bridge, it refers to.