



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Petitions

9.12.2010

NOTICE TO MEMBERS

Subject: Petition 1501/2009 by Roque Leal Carretero (Spanish), on the projected road affecting the Sierra Norte wildlife park close to Seville

1. Summary of petition

The petitioner indicates that work on the A-455 relief road in the municipality of Constantina would adversely affect a conservation area recently designated as a biosphere reserve in the Sierra Norte close to Seville. He also points out that it would be routed along a livestock track situated on non-building land. From the attached documentation it emerges that information concerning the project has been made available to the public, that an environmental impact survey has been carried out and that the project is receiving ERDF funding.

2. Admissibility

Declared admissible on 29 January 2010. Information requested from Commission under Rule 202(6).

3. Commission reply, received on 11 May 2010.

The Commission has examined the information provided by the petitioner in light of the European Union (EU) law that might be applicable to this case. It emerges that information concerning the project has been made available to the public in the framework of an Environmental Impact Assessment (EIA) procedure. The EIA Statement has been adopted by Decision of 21.02.2008 of the Seville Provincial Office of the Regional Ministry of the Environment. Moreover, this project is receiving European Regional Development Fund (ERDF) funding.

It should be noted that 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 through a procedure called screening. 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.

Road projects are covered by both Annexes I and II (Annex II covering those not included in Annex I).

Regarding the EU Nature Directives (the Birds Directive 2009/147/EC⁵ and the Habitats Directive 92/43/EEC⁶), it should be noted that they would be applicable if the project in question could have a significant effect on any Natura 2000 site. In such cases, the EIA procedure may be a useful tool to apply the requirements and safeguards of Article 6 of the Habitats Directive.

The area affected by this project has been designated by the Spanish Authorities as a Special Protection Area (SPA) under the Birds Directive and it is a Site of Community importance (SCI) under the Habitats Directive, with the name and code ES0000053 "Sierra Norte", belonging to the Natura 2000 Network.

Finally, it should be noted that the Commission has no powers to intervene in relation to the legal regime of protection of the livestock trails. This issue is only covered by the legislation of the Member State. If the petitioner wants to contest the impact on these trails, he needs to make use of the means of redress provided for under Spanish law.

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

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

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

6 OJ L 206, 22.07.1992

4. Further Commission reply, received on 8 October 2010.

The Commission has examined the information provided by the petitioner in light of the European Union (EU) law that might be applicable to this case. In order to fully understand the details of the case, the Commission requested information from the Spanish authorities concerning compliance with the relevant requirements under EU environmental law.

The Commission found, however, that the reply provided by the Spanish authorities did not contain detailed information on the adequate implementation of the provisions of Article 6 of the Habitats Directive¹, 92/43/EEC.

It should be noted that the area affected by this project has been designated by the Spanish Authorities as a Special Protection Area (SPA) under the Birds Directive and that it is a Site of Community Importance (SCI) under the Habitats Directive, designated ES0000053 "Sierra Norte", and belonging to the Natura 2000 Network. Therefore, the Commission is, once again, going to ask the Spanish authorities to verify how the provisions of Article 6 of the Habitats Directive are being implemented in this case.

In reply to a separate request for information, the Spanish authorities explained to the Commission that this project has not been selected for ERDF or other EU co-financing. At this stage, only the project design has been completed and was fully financed by the Andalusian government's regional budget. Public procurement has not taken place and the execution of the project has not yet been initiated.

5. Further Commission reply, received on 9 December 2010

As a result of the Commission's further request for detailed information in order to verify the adequate implementation of the provisions of Article 6 of the Habitats Directive², the Spanish authorities sent a further report prepared by the "Servicio de Espacios Naturales Protegidos de la Delegación Provincial de la Consejería de Medio Ambiente en Sevilla". This report demonstrates adequate implementation of the Habitats Directive, after having ascertained, in the EIA procedure, that the project will not adversely affect the integrity of the Natura 2000 sites concerned. The information provided on the two occasions by the Spanish authorities, demonstrates compliance with EU environmental law.

Therefore, the Commission concludes there is no infringement and has closed its investigation.

¹ OJ L 206, 22.7.1992

² Directive 92/43/EEC on the protection of natural habitats and wild fauna and flora (OJ L 206, 22.07.1992).