



16.3.2012

## NOTICE TO MEMBERS

**Subject:** Petition 1456/2008 by Mrs. Maria Luisa Rivera Alvarez (Spanish), on behalf of Asociación de Vecinos Val do Reblo, Arnado León, on the detrimental impact of the open-sky slate quarries functioning illegally in the village of Arnado (Oencia, Leon)

### 1. Summary of petition

The petitioner asks the European Parliament to intervene with the relevant Spanish authorities in order to close the open-sky slate quarries functioning illegally in the village of Arnado (Oencia, Leon). According to the petitioner, the activity of the quarries has caused irreversible damage to the houses located in the proximity as well as to the whole municipality of Oencia. The petitioner notes that the unique ecosystem of Valle del Rio Selmo situated in Oencia and protected under the Spanish legislation would also be seriously affected by the quarries. The petitioner maintains that the quarries have not discontinued their activity despite the fact that regional authorities have acknowledged that they operate illegally. According to the petitioner, they function on the basis of illegal permits granted by the municipality of Oencia. The petitioner, whose démarches at national level have failed to provide any solutions, requests the European Parliament to investigate the issue.

### 2. Admissibility

Declared admissible on 10 March 2009. Information requested from Commission under Rule 202(6).

### 3. Commission reply, received on 25 March 2010.

The petitioner asks that the open-sky slate quarries, that are functioning illegally in the village of Arnado, in the municipality of Oencia, in the province of León, Autonomous Community of Castilla y León, Spain, be closed.

According to the petitioner, the activity of the quarries has caused irreversible damage to the houses located in the proximity as well as to the whole municipality of Oencia. She underlines that this activity is negatively affecting the ecosystem of Valle del Río Selmo, maintaining that these quarries are functioning on the basis of illegal permits granted by the municipality of Oencia. Furthermore, she states that there are possible plans to enlarge this exploitation, claiming that the regional authorities are not intervening to avoid this situation.

#### *The Commission's comments on the petition*

The Commission has examined the information provided by the petitioner in light of the European Community (EC) law that might be applicable to this case.

Directive 85/337/EEC<sup>1</sup>, as amended by Directive 97/11/EC<sup>2</sup> and Directive 2003/35/EC<sup>3</sup>, (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. 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.

The EIA procedure is therefore mandatory for Annex I projects. For Annex II projects, Member States have to determine, before development consent is granted, whether the projects are likely to have significant effects on the environment.

It should be noted that "Quarries and open-cast mining" are included, as extractive industry projects, in point 2 a) of Annex II of the EIA Directive. It is also important to note that according to point 13 of Annex II, the extension of existing 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, should be the subject of a new EIA procedure.

The EIA procedure ensures that the environmental consequences of projects are identified and assessed before authorisation is given by the competent authority (known as the development consent). The public can give its opinion and all the consultations must be taken into consideration. The public should also be informed of the content of the development consent.

Regarding the EU Nature Directives (the Birds Directive 79/409/EEC<sup>4</sup> and the Habitats Directive 92/43/EEC<sup>5</sup>), 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 that case, the EIA

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<sup>1</sup> OJ L 175, 5.7.1985

<sup>2</sup> OJ L 073, 14.3.1997

<sup>3</sup> OJ L 156, 25.06.2003

<sup>4</sup> OJ L 103, 25.04.1979

<sup>5</sup> OJ L 206, 22.07.1992

procedure may be a useful tool to apply the requirements and safeguards of Article 6 of the Habitats Directive.

### *Conclusions*

The Commission is awaiting information from the competent Spanish authorities concerning compliance with the relevant requirements under EC environmental law. In particular, the Commission has asked the Spanish authorities how they have applied the provisions of the EIA Directive in this case.

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

#### **4. Commission reply (REV), received on 6 May 2011**

According to the available information, the regional ombudsman (Procurador del Común) has started an investigation into this matter, noting that the relevant Spanish authorities have failed to act to remedy the situation.

The Commission has requested further information from the competent Spanish municipal and regional authorities, to ascertain the current situation of this quarry, whether it might be legalised or extended, and what action has been taken to ensure compliance with the applicable laws. It also requested information on the situation of the various slate quarries in this municipality. This information is needed to complete the examination of this case.

#### **5. Commission reply (REV II), received on 16 March 2012**

The Spanish authorities have provided further information in response to the request from the Commission. They have sent two reports from the Autonomous Community of Castilla and León, the first drawn up by the Regional Department for Industry, Business and Tourism and the second by the Regional Department for the Environment. They have also sent a copy of the decision taken on this matter by the regional ombudsman.

The local mines department, which is part of the Directorate-General for Energy and Mines at the Regional Department for Industry, Business and Tourism, has provided information on slate mining and the existing quarries in the area, in particular the one which is the subject of this petition. The quarry ('Nano y otras, No 9454') was granted development consent on 10 April 2001. The firm operating the quarry also has a corresponding restoration plan for the site. The regional authorities have said that, following complaints by residents about the dynamiting carried out by the firm, the competent authorities have conducted checks to ensure that the village of Arnado and the surrounding area are not in any danger. Following regular inspections of the quarries, various conditions have also been imposed in recent years, particularly with regard to waste management. The regional authorities have also said that action is currently being taken against the firm for violating the conditions set. This action includes the suspension of the firm's work both outside the authorised area and in one part of the authorised area owing to concerns about mine safety.

According to the Spanish authorities, the firm in question has requested an extension of the

development consent it was awarded in 2001 as well as permission to increase the size of the quarry. The Regional Department for the Environment is currently carrying out an environmental impact assessment for the project, in accordance with the guidelines issued by the regional commission for environmental protection. The public consultation period for the environmental impact assessment has already come to an end.

The environmental authorities have also provided information on the environmental protection measures taken by the slate quarries in the municipality of Oencia.

The Spanish authorities have included a copy of the decision by the regional ombudsman for Castilla and León concerning complaint No 20081440 on the slate quarry in question. The regional ombudsman is pleased that the competent regional authorities have taken the measures needed to solve the problems and to initiate proceedings aimed at punishing the firm for an administrative breach of Regional Law No 11/2003 of Castilla and León on environmental protection.

### Conclusion

The information in the file thus shows that the competent Spanish authorities have taken the measures needed to ensure that the relevant environmental legislation is upheld.