



30.1.2015

NOTICE TO MEMBERS

Subject: Petition No 2034/2013 by M.L.L-O.Q. (Spanish), on Private property and justice system in Spain

1. Summary of petition

The petitioner is complaining about lack of judicial remedy and legal uncertainty in relation to property ownership in Spain. She claims that together with her husband they were deprived of property rights without compensation, through the Coastal act (Law 22/1988). The Coastal Act is described as 'a legal trap', justifying abuses and no remedies by the Spanish courts are possible. By that Act the definition of the 'maritime-terrestrial public domain' was extended which became a confiscatory instrument for legally built houses. The petitioner gives chronological accounts of her case and asks the EP to look into her case and establish justice.

2. Admissibility

Declared admissible on 7 August 2014. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 30 January 2015

The European Commission is conscious of the difficulties faced by some European citizens in Spain as a result of the application of the Spanish Coastal Law ('Ley de Costas').

As has already been pointed out in response to other petitions concerning expropriations under the Spanish Coastal Law, there is no EU competence in matters of property law, hence the Commission is not in a position to examine the compatibility of the expropriation provisions under the Coastal Law and EU law: neither can the Commission comment on their

compatibility with Spanish Constitutional Law. The lack of EU competence in this area has been underlined once more in reply to written questions E-011695/2012 and E-000407/2013.

On 13 July 2012 the Spanish government adopted a preliminary draft law in order to modify the Coastal law.¹ The Commission met with representatives from the Spanish Ministry for Environment and welcomed the intention to improve legal certainty for property owners along the Spanish coast.²

The Spanish government presented a draft law to amend the Coastal Law of 1988 on 5 October 2012. The new law was adopted by the Spanish Parliament on 29 May 2013. This new law extends the period of the existing concession to enjoy possession of properties built in the protected zone from 30 to 75 years. In addition, the public administration will be obliged to register the definitive and provisional demarcation line in the property register, so that purchasers will be better informed about whether the property is situated in a protected area and the exact location and extension of this area. The new law does not, however, introduce any financial compensation for the property-owners affected by the law.

Conclusion

As has already been pointed out, the Commission can only intervene in circumstances where there has been an alleged breach of European Union law. In this case, there is no competence for the EU to follow up on this matter.

The question whether the form of compensation offered by the Spanish authorities is in line with the case law of the European Court of Human Rights should be examined by the national courts and, after having exhausted domestic legal remedies, by the Court itself. The Commission understands that actions have been filed against the law before the European Court of Human Rights.

If the petitioner feels that his human rights have been violated, then he may lodge a complaint with the Council of Europe's European Court of Human Rights (Council of Europe, 67075 Strasbourg-Cedex, France). However, the Court may only deal with a matter after all domestic remedies have been exhausted.

¹ "Proyecto de Ley de Protección y Uso Sostenible del Litoral y de modificación de la Ley de Costas", <http://www.magrama.gob.es/es/costas/temas/anteproyecto.aspx>

² http://europa.eu/rapid/press-release_IP-12-880_en.htm