



30.01.2013

NOTICE TO MEMBERS

Subject: Petition 0195/2011 by Baudilio Ros Prat (Spanish), on behalf of the San Isidro Catalan Agricultural Institute, on the Segarra-Garrigues canal irrigation project in Lérida

1. Summary of petition

The petitioner, who represents Lérida farmers and stockbreeders, supports the Segarra-Garrigues canal irrigation project, considered to be in the general interest, whereby 70 000 hectares of dry land were to be irrigated, thus benefiting 17 000 water right holders. However, the aim and purpose of the project have been undermined by the Catalan Autonomous Government, which has classed 42 000 hectares as an SPA or as Natura 2000 sites. The fact that irrigation will thus be prohibited on those sites is contrary to the spirit of the irrigation project, which can now cover only half of the area initially intended, and will translate into the corresponding economic and social losses, which in the petitioner's opinion outweigh the environmental benefits.

2. Admissibility

Declared admissible on 24 May 2011. Information requested from Commission under Rule 202(6).

3. Commission reply, received on 26 October 2011.

The Commission's services indicate that the adaptations that have taken place in the initial irrigation zone covered by the project mentioned by the petitioner are a result of the application of the judgment of the Court of Justice of the European Union of 28 June 2007, in Case C-235/04, and the judgment of 18 December 2007, in Case C-186/06.

Consequently, it should be noted that the competent Spanish authorities took the measures

referred to by the petitioner, following the two aforementioned judgments of the Court of Justice of the European Union, in order to comply with the EU's environmental legislation.

The Segarra-Garrigues canal irrigation project, to which the petition refers, has not received any Community funding under the Cohesion Fund or the European Regional Development Fund (ERDF).

However, in 2010 the Commission received a request for Community cofinancing for the project entitled '*Abastecimiento desde el Canal de Segarra-Garrigues (Lleida)*' ('Supply from the Segarra-Garrigues Canal (Lleida)'). This request was forwarded by the Spanish authorities and is one of the priorities of the Cohesion Fund-ERDF Operational Programme (2007-2013). The aim of the project is to build infrastructure for a drinking water supply network that will supply 43 municipalities in the areas of L'Anoia, La Conca del Barberà, La Segarra and L'Urgell in the Catalonia region, from the Segarra-Garrigues Canal. The areas concerned have a population of 62 597.

The system's infrastructures involve capturing the water in the Segarra-Garrigues Canal, near the municipality of Les Pallargues, and piping it to the drinking water purification plant situated in the municipality of Ratera. There are plans to expand the plant's facilities to allow purification of 8 Hm³ per year. The distribution network envisages one main pipe off which the secondary pipes to the municipalities will lead. The project also includes 10 pumping stations along the pipes and 5 regulation facilities. Electrical lines, equipment for automating and monitoring the installations, and measures to counteract the environmental impact, are also envisaged. The main network will be 48.9 km long while the secondary network will be 64.2 km.

On 26 April 2011 the competent authorities sent the Commission the additional information it had requested to continue with the assessment of the project. The supply project is currently in the last phase of its assessment (draft decision) before adoption of the decision by the Commission. The decision would involve Community aid of EUR 15 500 000 and the eligible cost of the project totals EUR 31 310 601.

The Spanish authorities responsible for the request to the Commission confirmed the independence, from a formal and conceptual perspective, of the 'Supply from the Segarra-Garrigues Canal (Lleida)' and the 'Segarra-Garrigues Canal irrigation project'.

Conclusion

The Commission's services believe that the petitioner's request relates to the 'Segarra-Garrigues Canal irrigation project', not the project that was submitted to the Commission and is currently being assessed, known as the 'Supply from the Segarra-Garrigues Canal (Lleida)' project.

The Spanish authorities confirmed the independence of the two projects, from both a formal and the conceptual point of view. They state that both projects were conceived separately and involved separate procedures.

The Commission confirms that, when it comes to the classification of protection zones for birds and the measures taken in those zones, the competent authorities' actions were aimed at implementing the judgments of the Court of Justice. As far as the second project is concerned, the 'Supply from the Segarra-Garrigues Canal (Lleida)' project, the Commission does not see any obstacles to continuing with the assessment of the project with a view to approving the

request aid.

According to the information received from the Spanish authorities, the ‘Segarra-Garrigues Canal irrigation project’ received public funding totalling EUR 5 971 013.15, including EUR 2 369 325.56 under the European Agricultural Guidance and Guarantee Fund (EAGGF).

4. Commission reply (REV), received on 30 January 2013.

Further to its previous communication, as well as the Petitions committee meeting in March 2012, the Commission services would like to formulate the following additional comments, notably on the subject of the classification of Natura 2000 sites.

Under the Birds Directive, Member States are required to identify, delimit and designate the most suitable territories in number and size as Special Protection Areas (SPAs) for the conservation of the species, taking into account their protection requirements in the geographical sea and land area where this Directive applies.

The Commission recalls that only ornithological criteria, such as those laid down in Article 4(1) and (2) of the Birds Directive, permit the definition of the most suitable sites with a view to their classification as SPAs. Consequently, Member States must provide the Special Protection Areas referred to therein with a legal protection regime that is capable, in particular, of ensuring both the survival and reproduction of the bird species, listed in Annex I to the Directive, and the breeding, moulting and wintering of migratory species which are regular visitors, albeit not listed in that Annex.

Member States cannot take account of the economic requirements mentioned in Article 2 of the Birds Directive when choosing and defining the boundaries of a Special Protection Area or even to take account of economic requirements constituting a general interest superior to that represented by the ecological objective of that Directive.

As with any other administrative act, the decision to classify SPAs can be challenged before national courts.