



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Petitions

19.9.2013

WORKING DOCUMENT

on the deliberations of the Working Group on Spanish property rights and the 1988 Coastal Law, including a fact-finding visit to Spain, 21-22 March 2013

Committee on Petitions

Members of the delegation to Spain:

Angelika Werthmann	(ALDE) (Leader of the delegation)
Marta Andreasen	(ECR)
Margrete Auken	(Greens/EFA)
Peter Jahr	(EPP)
Rainer Wieland	(EPP)

Accompanying members:

Dolores García-Hierro Caraballo	(S&D)
Carlos José Iturgaiz Angulo	(EPP)
Willy Meyer	(GUE/NGL)

Additional members of the Working Group: Michael Cashman, Giles Chichester, Vicente Miguel Garcés Ramón, Edward McMillan-Scott, Nikolaos

Salavrakos, Jarosław Leszek Wałęsa

Introductory remarks

This report will focus on the visit undertaken by members of the Petitions Committee to Madrid in March 2013, but covers issues which have been the subject of discussion and debate within the Petitions Committee for many years. Indeed, it goes to the very heart of what the majority of European citizens and residents feel to be their essential and fundamental rights to their homes and property on the one hand, and to the environment within which they live, on the other hand. The list of petitions received, which describe the injustice, arbitrariness and irregularity in the application of the 1988 Spanish Coastal Law, is a very long one and is annexed to this report.

It was in fact toward the end of the previous legislature that the well-documented claims began to reach the Parliament, as the Committee was in the process of preparing what was to become the Auken Report. In the resolution to the report on the impact of extensive urbanisation in Spain, which was approved overwhelmingly by Parliament in March 2009, was the following substantive paragraph:

22. Recognises and supports the efforts of the Spanish authorities to protect the coastal environment and, where possible, to restore the coastal environment in a way which allows bio-diversity and the regeneration of indigenous species of flora and fauna and in this specific context appeals to them to urgently review and if necessary revise the Coastal Law in order to protect the rights of legitimate home-owners and those who own small plots of land in coastal areas which do not impact negatively on the coastal environment; emphasises that such protection should not be afforded to those developments which are designed as speculative ventures which are not conducive to the respect for EU Environmental Directives; undertakes to review such petitions as have been received on this subject in the light of responses from the competent Spanish authorities¹;

The recitals to the same report provided the context for this, they state:

O. whereas last year the Spanish authorities issued instructions regarding the application of the 1988 Coastal Law, which had been neglected for many years during which time extensive environmental damage has been done to coastal areas in Spain, and whereas even the current instructions do not provide clear implementing measures to be followed by the local and regional authorities involved, and whereas many new petitions received bear witness to the retro-active contents of the instructions and the arbitrary destruction and demolition of individuals' legitimately acquired property, their rights to such property and their ability to transfer their rights by means of inheritance,

P. whereas, in view of the actual course of the demarcation line, those affected have formed the strong impression that it has been defined arbitrarily at the expense of foreign owners, for example on the island of Formentera,

Q. Considers that this Coastal Law impacts disproportionately on individual property owners

¹ Report on the impact of extensive urbanisation in Spain on individual rights of European Citizens, on the environment and on the application of EU law, based upon petitions received. (2008/2248(INI)). Opinion by the Legal Affairs Committee and opinion of the Legal Service are also referenced.

who should have their rights fully respected, and at the same time insufficiently on the real perpetrators of coastal destruction who have in many instances been responsible for excessive urban developments along the coasts including holiday resorts and who had good grounds for knowing that they were invariably acting contrary to the provisions of the law in question,

The Petitions Committee invited petitioners to attend meetings to discuss their case on two occasions in 2010 and again in 2011, meetings to which the Commission as well as the Spanish authorities participated. A written response dated July 6th 2010, from the then Minister responsible, María Elena Espinosa Mangana, to a series of questions on the application of the 1988 law, was not considered satisfactory by the Committee, which continued to pursue its work on the subject.

These debates and discussions were taking place within the Committee against a backdrop of the international financial crisis, the crash in the Spanish housing market and the collapse of much of the Spanish banking system particularly at regional level. It was therefore highly sensitive and controversial but this did not prevent the Petitions Committee from continuing. However, given the complexity and the sensitivity of the dossiers being discussed the Committee decided, at its meeting of 21-22 November 2011 to set up a special informal working group on Spanish Property Rights and the Ley de Costas. The Working Group began its work in March 2012 and it has since met on 8 occasions.

The Committee Chairman wrote to the new Spanish Minister of Agriculture, Nutrition and Environment, D. Miguel Arias Cañete, in January 2012, informing him of the interest and the concerns of the Committee with regard to the new government's proposals to reform the Ley de Costas, which he had announced on January 13th 2012¹.

In April 2012, the Director General at the Ministry responsible for the Ley de Costas made a statement at the meeting of the informal working group, during which he outlined the government's proposals for reform and he responded to members' questions. This was followed up in July with a letter enclosing the new preliminary draft legislation which was circulated to members of the working group.

Given the number of issues raised it was decided to prepare a questionnaire, which reflected many of the points expressed by petitioners, to be sent to the Ministry for their comments and reaction as members maintained several key areas of concern. Having been considered by the working group and the Committee Coordinators, the questionnaire was sent on June 25th 2012. The responses are considered later in this document.

The members of the working group were encouraged by the apparent willingness of the Spanish authorities to engage in a dialogue with them on this issue. However, in spite of many attempts to begin further discussions with the authorities, little contact was possible before a response to the questionnaire was finally received on February 26th 2013. In the meantime, petitioners had been maintaining their contacts with the Committee and the working group, and ensuring members were informed of the developments and the negotiations on the draft legislation in Spain especially as it affected them, as had a number of environmental NGOs.

¹ Letter from Erminia Mazzoni. 18.01.2012, Ref: GEDA 200174.

News also reached the Committee of the demolition of homes in some coastal areas under the application of the 1988 law. The Committee had sought a moratorium, but the law was nevertheless applied and enforced by the courts, without the intervention of the ministry.

The reform proposals

The purpose of the reform of the 1988 Ley de Costas is to provide greater legal certainty for people who owned property along the Spanish coastal areas, and greater protection for the coastal environment. This has always been a key issue for the Committee, as the 1988 law had been notoriously badly and arbitrarily applied - hence the need for the reform according to the authorities. In their preliminary draft, the Spanish government provided what they considered to be a more accurate definition of the "public domain," which is another crucial element which conditions the rights accorded to individuals as regards their property ownership. The draft also proposed to plug the many deficiencies in the land registry and also "to improve conditions governing both the time periods for possession and the transfer of property rights".

The State Secretary at the Ministry of Agriculture, Nutrition and the Environment provided members with a clear explanatory statement according to which a "thoroughgoing review of the current system" was required. The previous (1988) law "at times tolerated results which were unacceptable from an environmental point of view," the explanatory statement read, and the reform is intended to be "an effective means of conserving the public maritime-terrestrial domain and ensuring its use by the public at large." The statement provided measures which would allow the central authorities to intervene and effectively block any measures local authorities might make which could "compromise the integrity of the public maritime-terrestrial domain or the easement area." A differential was proposed between urban beaches and natural beaches next to protected areas or rural land. Measures were also contained in the preliminary draft law which have the objective of improving energy efficiency and water conservation of dwellings in the areas concerned.

It was recognised in the draft law that problems had arisen regarding the legal certainty of property ownership which had, in turn, "given rise to mistrust and confusion"¹.

From the perspective of the petitioners and the majority of members of the Committee, this was a euphemism, or at the very least an understatement. It remains also a difficult political and constitutional issue. Decentralisation of authority and the excessive power tacitly but visibly accorded over many years to municipal authorities, by regional governments, allowed many local councils to abuse their role by accepting massive building programmes which did not provide proper or adequate supervision and, in the end, left many innocent home-buyers abused and betrayed by real estate companies and their advisers. This went hand in hand with what many see as extensive corruption and collusion between political authorities and the construction industry.

Members were encouraged to learn that the new draft legislation would contribute to the ending of such malpractice – at least within the narrow perimeters covered by the Coastal Law, – by creating new and much clearer guidelines to be followed by all. This would be to

¹ Preliminary Draft Law, Explanatory Statement Section III.

the benefit of the home-owners, to prospective buyers and to the construction industry which should be able to embark on a more sustainable path of development. Moreover, the environmental provisions which were outlined were apparently intended to preserve and protect what zones of natural environment remained after the years of untrammelled destruction¹.

There remains however an important consideration which is still partly unresolved, and which relates to the basic right of property ownership itself. Simply put, the issue confronts two fundamentally opposing concepts of property rights: the Spanish government does not accord ownership of the homes constructed within the coastal zone, but it instead considers them to be concessions. Whereas under the 1988 legislation the concessions lasted for thirty years, under the new proposal they be extended in certain circumstances to seventy-five years. Petitioners, many of whom had bought their property before 1988 or had been bequeathed property owned by their family for generations, consider nevertheless that they should retain full ownership rights, attested by the acts of sale. Therefore, petitioners find any proposal which retracts from such acquired rights to be unacceptable, all the more so as its effects would be retroactive.

The system for granting concessions is reviewed and extended, as mentioned, for up to seventy-five years and the transfer of concessions will now be authorised through legal inheritance or as a gift during the owner's lifetime as long as notification is made within a four-year limit. (*mortis causa* and *inter vivos*).

In its reply to members' questions on this point, the Ministry clarified their reasoning as follows: "demarcation allocates ownership and property rights to the State, creating demarcation in such a way that registration in the property register cannot override the public domain nature of demarcated properties"². Compensation to private property owners claiming pre-existing property rights is therefore only provided as a concession; public interest prevails over the rights of private citizens.³ Title-holders of land within the DPMT have therefore in effect, according to the new law, a right of usufruct and they must request authorisation to make use of the concession for which they must, in addition, pay a fee.

Safeguards are introduced against potentially polluting industries established in the shoreline zones, who may only obtain extensions to their existing concessions when subject to a favourable report from the regional environment agency.

The law has the objective of establishing clear boundaries and it will be mandatory to register land in the public maritime-terrestrial domain so that the land register reflects the physical reality of the coast; something which the 1988 law manifestly failed to achieve. A note is proposed in the margin of the register concerning dwellings affected by the demarcation which is designed to ensure greater transparency.

¹ It should be recalled that this law, as was the case for the 1988 law, only concerns the maritime coastal zones up to a maximum of 100 metres from the high-tide mark "the furthest point reached by waves in the largest known storms", and not areas in the coastal region further inland. It does not mention the recovery of lost natural zones.

² Response to question 17.

³ The Government refers to Articles 132 and 33.2 of the Spanish Constitution and the ruling of the ECHR of March 2010.

Owners of property in the easement areas will now be able to carry out improvements and modernisation of the property as long as they do not increase the building's size, surface area or height. They would be required to make declarations regarding their conformity with energy-efficiency and water-saving requirements. A specific legal framework is created for sites of cultural interest and which are in the public domain. Un-built zones within such areas would remain as such and a prohibition is established for any proposed new residential or hotel buildings.¹

The revised legislation also has as an objective the "sustainable protection and improvement of the coastline". The government undertakes to respect not only the terms of the Barcelona Convention which is aimed at protecting the marine environment of the Mediterranean, but also the RAMSAR Convention and EU Directives, notably the Habitats Directive and the Natura 2000 network.

Environmental organisations however expressed their concern that the new law in fact represents a major setback on coastal protection, potentially allowing the destruction of important ecosystems such as salt marshes and dune systems and reducing the margin of protection allowed for estuaries and *rías* from 100 metres to only 20 metres².

Mission to Madrid

On November 21st 2012, the informal working group sent a letter to the Committee Chairman which outlined the extent of their work accomplished in the nine months since its creation and requested an urgent fact-finding visit to Madrid³. It was not however until the 21-22 March 2013 that an official visit was authorised⁴.

By the time the delegation arrived in Madrid, the new draft legislation had already been approved by the government, had been debated in the lower chamber and was awaiting its adoption by the upper chamber of the Spanish Parliament. Requests to meet with the Chairman of the Environment Committee were not responded to by the Spanish Parliament. However, extensive discussions were able to proceed with many petitioners, who made their way to Madrid to meet with the delegation, with Mr Pablo Saavedra Inaraja and his senior colleagues in the Directorate of Coastal and Maritime Sustainability, as well as with environmental associations, grouped within the platform "No a Nuestra Costa" who had previously been in contact on this issue with the Petitions Committee.

The Petitioners:

On March 21st 2013, the delegation organised an open meeting with the many petitioners, some of whom had already maintained an ongoing contact with the Committee since having

¹ Response to question 22.

² Letter to members of the working group, October 30th 2012. (Amigos de la Tierra, Ecologistas en Accion, Greenpeace, SEO/Birdlife, WWF and GOB).

³ Letter from Angelika Werthmann, Moderator of the Working Group, to Erminia Mazzoni: 21.11.2012 GEDA Ref:204621.

⁴ Although two members of the working group did meet informally with petitioners and several Spanish MPs in Madrid in February 2013.

appeared before the Committee in Brussels. The objective on this occasion was more to formulate an assessment and measure the reaction of the petitioners to the new legislation, than to look deeper into individual cases - although, inevitably, that was also necessary in order to highlight the allegations being brought to bear against the reformed *Ley de Costas*.

All the petitioners considered that they had legal titles to their property, and it was estimated that between 200 and 400,000 people could be directly affected by this legislation. The petitioners made the point that the Spanish coastal environment had been dramatically and irretrievably destroyed over extensive stretches, especially along the Mediterranean coast and the islands, not because of the individuals who owned small properties but because of the speculative construction which had taken place during the many years since the original *Ley de Costas* had been adopted in 1988, fuelled by the complacency and sometimes the corrupt practices of political authorities.

The original law was not seen as being fit for purpose in its application and the most serious doubts were expressed that its successor would in any way be able to fulfil its task regarding the protection of the coastal environment, and even less so as regards the legitimate rights of small property owners, many of which were non-Spanish EU citizens who had chosen to benefit from the right of freedom of movement and establishment accorded under EU law.

Several of the Spanish petitioners pointed out the severe anomalies which had occurred in areas close to their homes, where new urbanisations had been built yet a home which had remained in the same family for six generations and was further away from the coast was subject to demolition (petition 395/2010). In another case, the state had actually sold off confiscated properties.

Most of the petitioners present confirmed their position that a concession providing them with the right to use their property, or to improve it, even if it was extended to seventy-five years, was not the equivalent to full respect of their rights and that it denied them the right to sell their property at anything like the original market value. Moreover, the legislation provided the authorities the right to rescind the concession in a way which could be seen as being completely arbitrary, and property could still be demolished without any justifiable reason. Petitioners presented examples of private coastal properties being demolished in order to construct a promenade area along the coast which destroyed the natural environment of the whole zone.

Another referred to his family home, built on coastal land in 1899 along a fourteen kilometre promontory, which is now subject to demolition. He is to be expropriated without any proper compensation being accorded (petition 174/2008). Another petitioner indicated that his home, as well as that of his neighbours, have now moved within the limits of the coastal zone as a result of the extraction of the coastal sand and other hydraulic work along the beach area, funded by the European Union moreover, and they therefore now form part of the public domain which was not the case when they legally bought their sea-view properties in the 1980s (petition 119/2009). They also risk demolition and no compensation.

Arbitrary practices under the 1988 law were also denounced through examples of the Canary Islands, on Tenerife Cho Vito (petition 274/2009), where a whole local community living in old fishermen's cottages had been evicted and their homes destroyed without any tangible

benefit to anyone or the environment. Their rights had been abused and denied by bureaucratic and politically motivated decisions, sustained by false documentation they believed. In such circumstances it remains very difficult to place any confidence or trust in the countries laws and their fair application.

As a result of the extension of the port of Valencia, homes in El Saler were now subject to the provisions of the coastal law following the removal of the sand dunes which will lead to their homes being flooded, confiscated and destroyed (petitions 606/2009 and 1499/2009). Another petitioner described how her community felt powerless against the weight of powerful lawyers employed by companies with interests in the coastal zone and its development, who are seeking the removal of their small homes from the coastal area (petition 881/2009). In Santa Pola, protests arose because people were being robbed of their homes while bars and restaurants were being allowed to remain. The Courts failed to intervene to protect the rights of the home-owners, under the pressure of local financial interests in the tourism industry. Several examples were given where the 1988 law had not prevented homes from being demolished and hotels built in their place, in particular in the Balearic islands and the Canary islands (petitions 494/2010 and 678/2012) In Murcia, on the Isla de Mazarron, further examples were given where local homes had come into the public domain as a port development had erased the beach and the 39 homes affected had now lost their market value and subject to the conditions, established retroactively, of the public domain.

From the Basque country to Cádiz, petitioners described how the coasts were in fact maintained and the beaches cleaned up by the local people who now found that their homes were to become part of the public domain with a serious risk that concessions would be withdrawn. Private family homes which had a previous market value of €500,000 would now become virtually worthless, they feared (petition 103/2009). The courts apparently have failed to intervene to protect citizens' rights in many such circumstances.

The only group of petitioners who appeared to be able to benefit from the new legislation were those from Empuriabrava (petition 296/2009) as their very specific site where homes are built around inland waterway areas next to the coast, were to be covered by a special derogation, accorded to eleven other specified areas. Some petitioners however felt that the identification of these areas without clear criteria could be discriminatory.

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The Authorities:

On March 22nd in the morning, the delegation met with authorities at the Ministry of Agriculture, Nutrition and Environment. In his opening statement, Director General of Coastal Affairs Pablo Saavedra indicated that the driving force behind the new legislation was the need to resolve the problems and bad experiences which had happened under the 1988 law. He claimed that the views of the European Parliament had been taken into account by the Ministry in the preparation of the new legislation, for which there had also been public consultation.

Mr. Saavedra indicated that, once the new law revising the Coastal Law is adopted at the end of May, following the consideration of amendments tabled in Parliament, an additional regulation, currently being prepared, would then need to be considered, further defining 'legal

certainty' of property. He did not elaborate any further on this, except to say that the regulation should be approved by the end of 2013, at which time one should "be able to consider this issue as resolved".

The government had tried, according to Mr Saavedra, to strike a balance between different interests which would protect the coast and allow everyone to enjoy it as a public domain. Mr. Saavedra reiterated much of which is mentioned above in this report, regarding the reform proposals, and elaborated further on some of the main issues, notably the distinction between urban and natural beaches - which some members questioned because of the lack of criteria used for the 20 metre easement areas, and climate change indicators. He conceded that the law could not hope to obtain 100% satisfaction from all parties.

As regards the issue of compensation, Mr. Saavedra referred to a 1991 ruling by the Spanish Constitutional Court which indeed confirmed that concessions granted to property owners within the MTPD¹ may be considered as compensatory. According to him, the government had nevertheless improved on this by considerably extending the concession period and guaranteeing inheritance rights.

Economic activity would also find more legal certainty in the new legislation, he added, which would benefit some of the concessions mainly for tourism and cultural industry. Environmental protection had been enhanced, he claimed, by the introduction of specific impact assessments for industrial sites and large premises within the public domain.

In their comments, members raised a number of issues which remain of concern. Members were not convinced, for example, by the reference to the 1991 ruling, and considered that a preliminary ruling by the Court of Justice of the European Union on such an issue would be useful for all concerned. Criteria for the withdrawal of a concession were also unclear to many of them, who feared that they may be of an arbitrary nature as they had been since 1988. The demarcation line itself was also apparently open to manipulation, and there was concern expressed that large interests could "buy themselves out" of the public domain.

Concluding the discussion, the Director General indicated that, in the past, the absence of legal certainty had arisen partly because of the incorrect demarcation limits, because of property rights and because of the back-log in property registers and registration. The revised legislation was designed to confront these aspects. The Ministry's intention was to make the law compatible to protect the public domain and ensure sustainable activities were able to be conducted within that area.

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The Environmental NGOs:

On March 22nd in the afternoon, the delegation met with several environmental associations. Members were able to focus more specifically on the allegations regarding the environmental impact of the revised coastal law. The NGOs (WWF, Greenpeace, EA, Birdlife) were all deeply critical of the fact that the previous law had never been respected or properly implemented, and that local and regional authorities had consciously ignored its provisions

¹ Maritime-Terrestrial Public Domain.

when urbanising the coast and destroying whole eco-systems, which they emphasised should have remained protected.

The new law, they feared, could well make the situation worse because of the many political derogations which were being negotiated within it. Protection of the coastal environment, or what remains of the natural environment, would be even more problematic giving less overall protection of the coastal areas and increased economic exploitation, and they questioned the compatibility of the legislation with the proposed Directive establishing a framework for maritime spatial planning and integrated coastal management¹.

The environmental associations pointed out that, as in the past, there were no guarantees at all that regional or local authorities would actually respect or implement this revised legislation, as these had neither incentive nor adequate means to do so. This implies that the revised law will benefit very few people and only very big interests. Environmental associations fear that certain new urbanisations - originally built in protected or restricted areas under the old law will be removed from the public domain, as it is now deemed they fall within urban coastal areas, and alerted that this is being done at a time when the marine areas for Natura 2000 sites have yet to be designated. Therefore, those that violated the law in the past, when hundreds of kilometres of the coastal environment were effectively destroyed by the building frenzy, are now protected under the new law and they have nothing more to fear, being covered by a de facto amnesty on illegal buildings. Environmentalists alerted that no consideration had been given to the massive impact this has had on the fragile Mediterranean and Atlantic coastal bio-systems.

Concluding remarks

As a result of these meetings and also the discussions held within the informal working group, members remain by and large sceptical about the extent to which the revised *Ley de Costas*, which has now been approved by the Spanish Parliament and become law, will be implemented coherently and will live up to the objectives of the Ministry to enhance the protection accorded to the coastal environment.

In addition, members remain concerned about the significant improvements that are still needed in terms of property rights and acquisition in order to meet common European standards. Why is it indeed that the Committee has spent so much time dealing with the concerns of EU citizens about their property rights in Spain and in virtually no other EU country? To a certain extent, the boom in construction and the number of houses being bought and sold might explain this, but the overwhelming evidence suggests that the petitions are submitted because something is seriously wrong with the approach of the Spanish authorities, and Spanish lawyers, to this most fundamental of issues for almost all European citizens. Petitions reach the European Parliament from as many Spanish citizens as from non-Spanish citizens. This suggests that the access to an effective review of administrative decisions, to legal protection and to effective damage compensation within reasonable time is still frequently unsatisfactory.

Strictly speaking, under the terms of the EU Treaty, nothing obliges Spain to change its

¹ COM/2013/133/FINAL

position and it is clear that the Spanish Government and Parliament have full competence, constitutionally and politically, to decide and enact such legislation. The “system of property ownership” remains the competence of the member state. Nevertheless, the EU Treaty under Article 6 and the Charter of Fundamental Rights, Article 17, also contain provisions concerning peoples’ rights to their property. People therefore have legitimate expectations that the EU, and the Parliament in particular, should defend these rights on their behalf when they are undermined or violated. Moreover, article 3 of the EU Treaty commits all EU member states to a high level of protection and improvement of the environment. Article 191 of the TFEU reinforces this commitment and obliges member states to adopt the precautionary principles and take preventive action when required. The fact that in the preamble to the new legislation, reference is made to the report adopted by the European Parliament as a trigger for this reform shows that what the EU institutions, and the Parliament in particular says, is of importance to the Spanish legislator.

It is arguable whether these commitments and provisions have been fully recognised by the Spanish authorities in the revised coastal law and whether justice and fairness have been finally established either for property owners or the environment. Public consultation was organised by the Ministry and this was important; however whether it had any real impact on the outcome is very much open to question given the reactions from the petitioners and the associations from whom the Committee has heard.

It is regrettably the fact that this revision of the Coastal Law has largely failed to enhance legal certainty over property rights which is an absolute requirement of any sustainable housing market. In addition, the fact that the demarcation line is potentially subject to revision every time there is a shift in the line of the coast (from coastal erosion for example, or from the construction of a new marina) creates additional uncertainty as what may be legal today may not be so tomorrow.

Although the law indicates that the registration of property must be brought up to date, there is little evidence of any progress in this respect by the regional and local authorities and this remains a serious shortcoming. When this is assessed in the context of an extension of the concessionary period, which itself remains less than clear in terms of the establishment of specific time periods (on what criteria is a concession granted for 75 years and when it is not?) then, members consider, there are still too many uncertainties for European citizens to have to face in relation to their property rights. As has been said also, concessions are not considered by most members to be a fair compensation for the potential loss of value of private properties owned in the newly established public domain.

As regards the essential objective of the environmental protection of the coastal zones, members consider that there are still far too many shortcomings and ambiguities in the new legislation, in spite of the Environment Ministry's original ambitions in this respect. The reduction in the easement areas for the coastal rías seems particularly unjustified. It should be more clearly recognised that 'economic development' - which is mostly equated with the construction industry sadly, is fundamentally incompatible with the protection of an extremely vulnerable and ecologically fragile coastal zone. The new law has missed the opportunity to ensure that the new EU Framework Directive on Integrated Coastal Zone Management is clearly taken on board, and has not fully recognised either the EU Council Recommendations of 2002 or the Protocol to the Barcelona Convention, ratified in 2010, on

the same subject. Members remain uncertain that a number of other EU Directives are fully respected.

Bearing these conclusions in mind, and having regard for the extensive discussions within the working group and amongst members of the delegation which visited Madrid on this subject the following recommendations are made.

Recommendations

1. The protection of the Spanish coastal area and the protection of properties in this coastal area shall be liable to a proportionate balancing of legally protected interests.
2. Recognizes that the Spanish Government has already made a significant effort by approving a new coastal law which solves most of the outstanding problems, such as the defenceless situation in which EU citizens might find themselves when building out of good will and to reconcile the protection of the Spanish coastline with economic growth, and thus to provide greater legal certainty for property owners.
3. Calls upon the European Commission to examine the compliance of this new legislation with EU law.
4. Reminds that the European Commission's Communication to Members has always pointed out that the "system of property ownership" remains the competence of the member state and that the Commission can only intervene in circumstances where there has been an alleged breach of EU law.
5. Encourages the Spanish authorities at national level to work with the Autonomous Regions and local authorities to promote, preserve, and where possible to regenerate, the coastal environmental areas which have been seriously degraded as a result of construction works and building projects, some of which have been of proven illegality. Protected coastal areas should not be used for constructing new properties, buildings or dwellings, as the prevailing purpose of the law is the sustainable management of the Spanish coast, understood as the protection of its diverse naturally valuable and sensitive ecosystems.
6. Urges the Spanish authorities to establish a full and fair financial compensation scheme for all legal property owners whose homes may be subject to demolition or expropriation as a result of the application of the Ley de Costas.
7. Calls on the Spanish authorities to grant a compensation that reflects the value of the property of people concerned by the Ley de Costas, instead of granting a concession.
8. Regarding properties described as 'illegal buildings' in or near the coastal zones which have been sold to unwitting European citizens, including Spanish citizens, exhorts the Spanish judicial authorities to investigate and pursue those private agents or public authorities which have acted outside of the formal legal framework in attributing and acquiring spurious building rights and to bring them more swiftly to justice, while ensuring that the victims of such operations, who bought their properties in good faith, are entitled to full and fair compensation from the Spanish authorities.
9. Calls upon the authorities to issue clear guidelines to all regional and local authorities, based upon objective and non-discretionary criteria, regarding the attribution of concessions to existing legitimate property owners who own dwellings within the coastal zones, ensuring a fair and uniform application of the law. Reiterates nevertheless the Committee's strong reservations about the existence of such concessions.

10. As regards the delimitation of the public domain, urges the authorities to apply objective technical criteria and to ensure, where derogations may need to be applied, that these are justified in a clear and transparent manner which in every case is related to enhanced environmental protection.
11. Calls for a moratorium or freeze on all cases pending before the courts concerning dwellings located in coastal areas subject to possible modification of the demarcation line in order to preserve from eventual demolition buildings which could afterwards fall outside the public domain.
12. Calls upon the property register and cadastral records to be brought up-to-date swiftly and accurately, ensuring that all owners of property within the demarcation zones are properly informed about their rights and the means of access to justice should they believe this is necessary in order to protect their legitimate interests. Changes in the cadastral registry may only be made if the concerned holders of property have had the chance to gain knowledge thereof.
13. Calls upon the authorities to further clarify the distinction between natural and urban beaches and to take measures to effectively prevent the encroachment of urban beaches into the natural beach classified zones.
14. Reiterates its call for justice to be effective and timely, considering that excessive delays in the administration of justice is itself an unacceptable injustice. Within this context, where court proceedings are opened, urges all parties and public authorities to be aware of the possible usefulness of requests for preliminary rulings addressed to the European Court of Justice, in order to obtain reliable interpretations of central issues under European legislation in cases before the national courts, and to ensure that a corresponding application gives legal entitlements under European law to the applying parties.
15. Points out that the prospect of long-lasting legal proceedings inhibits concerned owners to go to the Spanish Courts. Therefore, suspensory measures should be considered in court rulings on property issues.
16. Calls on the European Commission to investigate the question of what actual obstacles lie in the way for EU citizens to effectively make use of the instrument of preliminary rulings from the European Court of Justice; recalls the European Parliament resolution of 21 November 2012 on the activities of the Committee on Petitions 2011.
17. Welcomes the recognition of climate-change in the new coastal legislation, and the need to adapt coastal management to its inevitable effects.
18. Protected areas that are declared as such, under EU or national law, are supposed to be protected as said in the relevant legislation, instead of rebuilding property on that ground.
19. Calls on the European Commission to verify the compliance with European public procurement law when public infrastructure is built on expropriated properties.

ANNEX



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Petitions

27.3.2013

NOTICE TO MEMBERS

Subject: Petition 0174/2008 by Mr. Jose Ortega (Spanish), on the alleged abusive application of the Spanish law of the coasts in relation to property rights,

Petition 0303/2008 by Rosa Garcia Pose (Spanish), bearing 55 signatures, on the loss of the signatories' homes as a result of coastal zone protection measures in the province of La Coruña,

Petition 0867/2008 by Ms. Karin Koberling (German), on alleged abusive application of the law of the coast by the Spanish authorities,

Petition 1271/2008 by Rudolf Schneiders (German) on possible enforcement of the 'Ley de Costa' in Spain,

Petition 1448/2008 by Ursula Czelusta (German), on surveying activities on the Spanish coast and the possible compulsory purchase of her home in Spain,

Petition 1485/2008 by Alan Hazelhurst (British), on illegal application of the Spanish Law of the Coast (Ley de Costas),

Petition 1691/2008 by Oscar Maniaga Izquierdo (Spanish), on expropriation of his house in Alicante, Spain, under the Spanish Coastal Law,

Petition 1871/2008 by the Celorio Residents' Association concerning urban development projects in Celorio, Asturias, Spain,

Petition 0103/2009 by Margarita García Jaime (Spanish) concerning the 'Ley de Costas' (Coastal Law) in Spain,

Petition 0119/2009 by Jan Van Stuyvesant (Dutch), on behalf of the Vera Playa Property Owners Association, Almeria, Spain, on the situation arising from the 'Ley de Costas' (Coastal Law) in Spain,

Petition 0274/2009 by Tomás González Díaz (Spanish), on behalf of the Las Calas residents' association, on the demolition under the 'Ley de Costas' (coastal law) of the village of Cho-Vito situated on the coast of Tenerife in Candelaria (Spain),

Petition 0278/2009 by Gregorio Amo López (Spanish), on the Coastal Law in Asturias, Spain,

Petition 0279/2009 by Timoteo Giménez Domingo (Spanish), on the impact of the Coastal Law in Spain,

Petition 0296/2009 by Ingeborg Hoffman (German), on behalf of the Empuriabrava Association of Property Owners (APE), on the loss or limitation of property rights following the application of the Spanish Coastal Law to the Costa Brava,

Petition 0298/2009 by Wolfgang Ludwigs (German), on the Spanish Coastal Law,

Petition 0389/2009, by M. L. (German), concerning the loss of his property in Spain under the Spanish Coastal Law,

Petition 0606/2009 by Paula Llana Alcada (Spanish), bearing 2 signatures, on the implications of the Spanish Coastal Law ('Ley de Costas') with regard to her properties,

Petition 0611/2009 by Maria Jesús de Motta Martínez (Spanish), on the implications of the 'Ley de Costas' coastal law with regard to his property,

Petition 0618/2009 by María Luisa Domínguez Ibáñez (Spanish), on the implications of the 'Ley de Costas' (Coastal Law) with regard to her property,

Petition 0626/2009 by Nordhild Köhler (German), concerning implementation of the Spanish Coastal Law (Ley de Costas) on Formentera,

Petition 0666/2009 by Carmen Ramos Badia (Spanish), on the implications of

the Spanish Coastal Law ('Ley de Costas') with regard to her property,

Petition 0667/2009 by Jon Iturribarria de Castro (Spanish), on the implications of the Spanish Coastal Law ('Ley de Costas') with regard to his property, a tide mill built in 1683,

Petition 0676/2009 by Jorge Comin Giner (Spanish) on the implications of the Coastal Law 'Ley de Costas' for his home,

Petition 0708/2009 by Pedro López Rodríguez (Spanish) concerning the Coastal Law (Ley de Costas),

Petition 0881/2009 by Pilar Embeita Olasagasti (Spanish), on behalf of Asociacion DARACA, on the retroactive, arbitrary and abusive implementation of the Coastal Law in the municipality of Pielagos,

Petition 1346/2009 by José María Martínez de Haro (Spanish), on boundary demarcation in Garrucha, Almería, under the Coastal Law,

Petition 1499/2009 by Mercedes Bronchal Pascual and Antonio Maestre Azcon (Spanish) concerning the effect on their homes of the 'coastal law',

Petition 1523/2009 by Konrad Ringler (German), on non-compliance by the Spanish national and regional authorities with the recommendation of the Auken Report,

Petition 1573/2009 by Aurelio Pretel Marín (Spanish), on the Coastal Law,

Petition 1625/2009 by Heribert Hofmann (German), on a project to develop a pleasure port at Santa Margarita on the Rio Grao,

Petition 1691/2009 by Dolores Monferrer Guardiola (Spanish), bearing 40 signatures, on the demolition of homes in the Puig district (Valencia) under the terms of the Coastal Law,

Petition 0220/2010 by Nicole Amsellem (French) concerning the Spanish Coastal Law,

Petition 0255/2010 by María Teresa Alonso Barrero (Spanish), on behalf of the 'Proprietarios de Primera Línea Sol naciente', on the Coastal Law,

Petition 0270/2010 by Francisco Javier Martínez del Cerro Poole (Spanish), on the Coastal Law and its effect on aquaculture and saltworks in the Bay of Cádiz,

Petition 0341/2010 by José Pérez Deniz (Spanish), on behalf of the 'Asociación para la defensa del centro comercial de la Playa del Inglés', on the Coastal Law in Gran Canaria,

Petition 0395/2010 by Ramona Chouza Chouza (Spanish), on the Coastal

Law in Biscay,

Petition 0493/2010 by Juan José Agost Pérez (Spanish), on behalf of the Residents' Association of the Torre la Sal coastal area on the impact of the Coastal Law on Cabanes in Valencia,

Petition 0494/2010 by Alonso Orihuela (Spanish), on the impact of the Coastal Law on Candelaria, Tenerife,

Petition 0575/2010 by Helen Prior (British) concerning her home in Almeria,

Petition 0762/2010 by José Luis González Godoy (Spanish) concerning the Coastal Law in Spain,

Petition 0925/2010 by Santiago Barcia Rañales (Spanish), on behalf of the Residents' Association of Vilarrube beach (La Coruña, Spain), accompanied by 426 signatures, on the Spanish coastal law,

Petition 1197/2010 by Elisa Arjona González (Spanish), on the coastal law,

Petition 1312/2010 by Rafael Barroso Castilla (Spanish), on the coastal law,

Petition 1328/2010 by José Ortega (Spanish), on the affect of the Coastal Law on the Casbah housing development in Valencia,

Petition 1540/2010 by Johan Weichselbaum (Austrian), on the demolition of a house affected by the Coastal Law in the Canary Islands,

Petition 0144/2011 by Karin & Jean-Louis Aubin (Franco-German), on the application of the Spanish coastal law to Empuriabrava,

Petition 0200/2011 by Aleixandre Mariano Cabrelles (Spanish) on the status of the Empuriabrava marina, in Girona, and the application of the Coasts Act,

Petition 0472/2011 by Juan Guillermo Palanca Rodriguez-Spiteri (Spanish), on behalf of Union Salinera de Espana, on expropriation of salt deposits under the coastal law in Spain,

Petition 0540/2011 by Javier Lopez Domenech (Spanish), on behalf of the company Bras del Port S.A, on the inclusion of the salinas at Santa Pola (Alicante) in the public maritime-terrestrial domain, under the Coastal law (Ley de Costas),

Petition 0633/2011 by Jose Hilario Ortega Anduiza (Spanish), on behalf of Salinas de Levante S.A., on the expropriation of salt mine land as a consequence of the application of the Spanish Coastal Law (Ley de Costas),

Petition 0711/2011 by T.S. Ostrowski (Polish), and bearing two signatures, on the implementation of the Spanish Coastal Law in the Spanish

Mediterranean town of Empuriabrava,

Petition 1059/2011 by Joan Cirera Planas (Spanish), on behalf of Basta Ja! Perjudicats per la Llei de Costas de Balears, bearing 5 579 signatures, on the expropriation of property in the Balearic Islands under Spain's Coastal Law,

Petition 1060/2011 by Diego Albarracin Uxó (Spanish), on the expropriation of property in El Saler (Valencia) under Spain's Coastal Law,

Petition 1100/2011 by Alexander Perez (American), on the expropriation of property in Liencres (Cantabria) under Spain's Coastal Law,

Petition 1146/2011 by Claudio Riera y Riera (Spanish), on behalf of the Asociación para la Defensa de las Playas Norte de Dénia, on the degradation of the beaches in Dénia and Els Poblets (Alicante) and on Spain's Coastal Law (Ley de Costas),

Petition 1151/2011 by Jaime Domenech Gelabert (Spanish), on his property in the Balearic Islands, which is affected by Spain's Ley de Costas,

Petition 0626/2012 by Francesco Canzoneri (unspecified), on Spain's Coastal Law (Ley de Costas)

1. Summaries of the petitions

Summary of petition 0174/2008

The petitioner denounces the alleged abusive application of the 1989 Spanish law of the coasts which caused serious prejudices to property owners. According to the petitioner, the law has been applied retroactively and led to the demolition of legally built properties along the Spanish coasts. The petitioner explains that many owners, both Spanish and EU nationals, have seen their buildings demolished without compensation and before the administrative courts could rule on their cases. The petitioner maintains that the Spanish government has breached the national legislation on property rights. According to the petitioner, article 44.2(e) of the EC Treaty which enables a national of one Member State to acquire and use land and buildings situated in the territory of another Member State would have been breached as well. The petitioner asks the European Parliament to launch an investigation into the issue.

Summary of petition 0303/2008

The petitioners, who own homes in los Areeiros, Riviera, in the province of La Coruña, indicate that they are powerless against the provincial and national authorities, which are, it appears, seeking to expropriate them under the 1988 coastal zone conservation law. They refer to the Spanish Constitution, seeking a limitation of the coastal protection zone to 20 metres instead of 100 metres and asking the European Parliament to send a delegation to investigate matters on the spot.

Summary of petition 0867/2008

The petitioner considers that the Spanish law of the coast (Ley 22/1988) would be enforced in an arbitrary and retroactive manner, creating the premises for expropriations of many owners without compensation. According to the petitioner, when applying the law, the Spanish

authorities would disregard the historic specificity of certain areas, as Puerto de la Cruz. The petitioner maintains that most of the houses in Puerto de la Cruz are re-built old fishermen houses. The petitioner explains that for historic reasons, owners could not enter their houses in the cadastral register, as the land in Puerto de la Cruz is part of the old feudal area of Jandía, owned by Sociedad Dehesa de Jandía. She finds it unjust to have this fisherman village treated in the same way as recent excessive abusive urban development projects along the Spanish coast.

Summary of petition 1271/2008

The petitioner is concerned that his house on the Costa Blanca may be demolished under the 'Ley de Costa'. He indicates that a number of other houses have been demolished without this being in the 'general interest' as required by law, which, according to the petitioner, specifies that the home owners concerned must be compensated by the authorities. Since large sums of money are involved, the petitioner is concerned that the authorities may attempt to use EU funding for this purpose and asks the Committee on Petitions to examine carefully complaints from home owners in Spain.

Summary of petition 1448/2008

Having read press reports of fresh surveying activity along the Spanish coast, the petitioner fears that a compulsory purchase order may be issued in respect of her home in Almeria (Andalusia) under the new plans. The petitioner indicates that the plans are not available for inspection and is seeking the assistance of the European Parliament in protecting her property.

Summary of petition 1485/2008

The petitioner protests against the inclusion of the marina of Empuriabrava in the remit of the Spanish Law of the Coasts which would result in six metres of coastline being considered public property. The petitioner argues that the Empuriabrava is a man-made marina and denounces the intention of the Spanish authorities to use the law of the coasts to confiscate privately owned property.

Summary of petition 1691/2008

The petitioner complains that his house, located in the maritime-terrestrial public domain, is to be expropriated under the Spanish Coastal Law (Law 22/1988). He will receive compensation in the form of a 30-year administrative concession and seeks the protection of the European Parliament.

Summary of petition 1871/2008

The petitioners object to a number of urban development projects currently underway, having been approved by the Llanes Municipal Authorities. The petitioners argue that the projects are illegal, being situated on the coastline and hence subject to the relevant legislation (Ley de Costas). The petitioner also maintains that other building work is being carried out which fails to comply with the General Urbanisation Plans (Planes generales de urbanismo) and land-use legislation (Ley del Suelo).

Summary of petition 0103/2009

The petitioner indicates that she owns a property in Puerto de Santa Maria, which was built in 1980 after completion of all the requisite formalities, including planning permission from the municipal authorities and the approval of the coastal authorities. Furthermore, her property

was built prior to the adoption of the 1988 Coastal Law. However, her property is now situated inside the coastal zone limits as subsequently altered by the Andalusian Atlantic Coastal Demarcation Authority. Having exhausted all channels of legal redress in Spain, the petitioner has been expropriated. She objects to this and to the retroactive implementation of the relevant legislation (in this case the Coastal Law), the arbitrary nature of the official proceedings and the lack of legal certainty. She argues that this constitutes an infringement of the Charter of Fundamental Rights concerning the protection of private property (Article 17).

Summary of petition 0119/2009

The petitioner owns a property in Vera, Almería which was built after all the necessary formalities had been completed (planning permission from the municipal authorities and approval from the Coastal Administration Authority). In 2007 the Ministry for the Environment carried out works along the beach (with EU co-funding) for the conservation of the Almanzora Estuary. As a result the distance of 120 metres separating the petitioner's property from the shoreline and placing it outside the scope of the 'Ley de Costas' was, as a result of the 'shadow effect', reduced to 20 metres following the disappearance of the beach. The petitioner's property then came within the limits subsequently established by the coastal demarcation authority, as a result of which he was expropriated. He objects to the arbitrariness with which the authorities reached their decision and the lack of legal certainty. He argues that this constitutes an infringement of the Charter of Fundamental Rights regarding the protection of private property (Article 17).

Summary of petition 0274/2009

The petitioner represents a residents' association of the coastal village of Cho-Vito, which was built during the 1950s and is recognised as being of environmental and cultural significance. However, from October to December 2008 the village was demolished by court order under the 'Ley de Costas'. The petitioner argues that this was an infringement of the fundamental and constitutional rights of the village residents.

Summary of petition 0278/2009

The petitioner, who is resident in Asturias, objects to the treatment of legally established traditional villages under the Spanish Coastal Law. He maintains that they are being treated less favourably than urban centres or holiday home developments owing to the quintuple encumbrance applicable to them, this being justified by declaring the properties affected to be inside the public domain. Furthermore, no compensation of any kind is being offered. This is an infringement of fundamental rights of those affected and deprives them of any legal guarantees.

Summary of petition 0279/2009

The petitioner indicates that the 1988 Coastal Law infringes a fundamental legal principle by being applied retroactively to homes built prior to its adoption. Furthermore the area of coastal strip designated as falling within the public domain has been widened by measuring it from the high-water level reached during the worst storms to date, thereby creating legal uncertainty. The petitioner has been expropriated and his property declared to be inside the public domain, leaving him with only a 30-year concession to continue living there, possibly extendable for a further 30 years. The petitioner argues that this is an infringement of the Spanish Constitution and the Universal Declaration of Human Rights.

Summary of petition 0296/2009

On behalf of her association (around 2 010 members), the petitioner is seeking the assistance of the European Parliament in protecting her home in Empuriabrava from the implementation of the Spanish Coastal Law. She indicates that Empuriabrava, a residential marina development, was planned totally from scratch twenty years prior to the entry into force of the Coastal Law. According to the petitioner, if the latter were applied, this would result in expropriations, environmental damage caused by the felling of hundreds of trees and the destruction of parkland. She points out that no illegal building, environmental damage, corruption or uncontrolled urbanisation have occurred in Empuriabrava, that it is not in danger from adverse weather conditions or high water and that application of the Coastal Law has no justification. She takes the view that all individuals are entitled to respect for their property and that in the EU it must be possible to have faith in property registers and notarial deeds. She wishes to know how a purchaser can be aware of the existence of such a law if notaries, property registries, local and municipal authorities and banks are not and endorse the relevant transactions accordingly. She points out that all those who purchased property after 1988, placing their trust in the authorities (as well as those who purchased their home before 1988, given that the provisions apply retroactively) are threatened by the law.

Summary of petition 0298/2009

The petitioner objects to the situation arising from the implementation of the Spanish Coastal Law at Empuriabrava, his place of residence.

Summary of petition 0389/2009

The petitioner indicates that the authorities intend to apply the Catalan coastal law to his home, as a result of which he will lose some of his land without receiving any compensation. In addition, he and others will be required to pay fees for moorings which have been legally purchased and duly registered.

Summary of petition 0606/2009

The petitioner bought a house in 1976 in a housing estate in El Saler, Valencia (Urbanización Cashba). The housing estate was developed on plots of land, sold by the Valencian local council, which sold them as plots ripe for development. In 2007 the petitioner was informed by the service responsible for the coastal demarcation in Valencia, that according to the Coastal Law of 1988 his building was under public ownership as part of the maritime and terrestrial zone. The petitioner therefore protests against the said law, which infringes the fundamental principle of legal security.

Summary of petition 0611/2009

The petitioner indicates that in 1991 she purchased a home on a development in El Saler, Valencia (Cashba estate), built on land sold by the Valencian authorities for this purpose. In 2007 she was informed by the Valencian Coastal Demarcation Authority that, under the 1988 Coastal Law, her property fell within the publicly owned coastal strip. The petitioner objects to the way in which the law is being implemented, arguing that it infringes the fundamental principle of legal security.

Summary of petition 0618/2009

The petitioner indicates that she purchased a residence on a development in El Saler Valencia (Cashba estate), built on land sold by the Valencian municipal authority for this purpose. In

2007 the Valencian Coastal Demarcation Authority informed her that under the 1988 coastal law her property fell within the publicly owned coastal strip. She objects to the way in which the law is being implemented, arguing that it infringes the fundamental principle of legal security.

Summary of petition 0626/2009

The petitioner, who lives on the coast of the island of Formentera, fears that she may lose her property under the Spanish Coastal Law (Ley de Costas). She maintains that the authorities are applying different criteria to foreign and Spanish property owners respectively in implementing the law, in so far as Spanish property owners are being allowed to keep homes and restaurants situated only 20 to 30 metres from the sea while she herself is in danger of losing her property which is situated 180 metres away. She is accordingly seeking the assistance of the European Parliament.

Summary of petition 0666/2009

The petitioner bought a property in 1985 on a development in El Saler, Valencia (Cashba estate), built on land sold by the Valencian authorities for this purpose. In 2007 she was informed by the Valencian Coastal Demarcation Authority that, under the 1988 Coastal Law, her property fell within the publicly owned coastal strip. The petitioner objects to the way in which the law is being implemented, arguing that it infringes the fundamental principle of legal security.

Summary of petition 0667/2009

In 2007, the petitioner inherited from his mother a tide mill in the municipality of Gauteguiz in Vizcaya. This tide mill had been bought by the Iturribarria family in 1965 and was built in 1683. The demarcation work carried out under the Spanish Coastal Law of 1988 to define the coastal zone limits has determined that this mill is situated within these limits. The petitioner considers that the implementation of the Spanish Coastal Law infringes the fundamental principle of legal security in that it is applied retroactively and in an arbitrary manner.

Summary of petition 0676/2009

In 2007 the petitioner purchased a home on a development in El Saler, Valencia (Cashba Estate) built on land sold by the Valencian Municipal Authorities for development purposes. In 2007, the Valencian coastal delimitation authority informed him that, under the 1988 Coastal Law, his property fell within the publicly-owned coastal strip. The petitioner protests at the way in which the law is being implemented, arguing that it infringes the fundamental principal of legal certainty.

Summary of petition 0708/2009

The petitioner outlines the irregularities and discrepancies which are occurring regarding implementation of the Coastal Law arising from differences in interpretation by the governments of the autonomous communities, resulting in legal insecurity affecting the owners of properties situated within the designated coastal strip. The petitioner ascribes this to the misinterpretation of a law designed to protect the Spanish coastline from the voracity of property developers.

Summary of petition 0881/2009

The petitioner exposes her view of 20 years of maladministration by the Spanish authorities at

the expense of the dignity and human rights of the citizens of her municipality. She asks the European Parliament to take note of this information and expresses her appreciation for its efforts in the form of the Auken report and her pride in feeling part of the European Union.

Summary of petition 1346/2009

The petitioner considers it inadmissible for a property owned by his family since 1830 in Garrucha to be retroactively affected by boundary demarcation under the Coastal Law, arguing that the State is not entitled to appropriate a property under a law promulgated one and a half centuries after its construction.

Summary of petition 1499/2009

The petitioner indicates that in 1976 she purchased a home in the Cashba development in El Saler (Valencia) built on land sold by the Valencian municipal authorities for this purpose. In 2007 the Valencian coastal demarcation authority informed her that, under the coastal law of 1988, her property was situated on the publicly owned coastal strip. The petitioners object to the way in which the law is being implemented, infringing the fundamental principle of legal certainty.

Summary of petition 1523/2009

The petitioner claims that neither the Spanish national authorities nor the regional authorities of Barcelona are paying any heed to the recommendations of the Auken Report. The Barcelona local authorities have announced a project to create a harbour in the Rio Grao which will entail expropriation and environmental damage. The petitioner suspects that EU funding has been granted, which – if true – would, in his opinion, constitute an insult to European citizens and Parliament and cause irrevocable damage to the environment.

Summary of petition 1573/2009

The petitioner, who purchased an apartment in the Santa Pola development area in Alicante in 1966, indicates that the municipal authorities have reclassified the land on which it is situated, establishing the boundaries in such a way as to include it in the coastal strip. As a result, the petitioner has been deprived of his property rights in respect of his apartment, with no compensation, and has been left with only a 30-year usufruct, forfeiting the right to transfer or bequeath the property.

Summary of petition 1625/2009

The petitioner describes the project to develop a pleasure port on the Rio Grao and the consequences it would have in terms of expropriation of private property and impact on the environment. He believes that the recommendations of the Auken report are being completely ignored.

Summary of petition 1691/2009

The petitioner who represents an association of property owners affected by the Coastal Law protests at the demolition of homes in the coastal district of Puig, decided by the Ministry for the Environment and Rural Development following a new demarcation of the coastal strip, the district having been declared illegal. Those concerned have owned the properties since before 1988 and many of the houses were constructed in the 19th century.

Summary of petition 0220/2010

The petitioner indicates that in 1988 she purchased an apartment in Alicante in Arenales del Sol before 1988, that all the necessary municipal permits had been issued that she had paid all the requisite taxes required. Since the entry into force of the Coastal Law in 1988 her title deed to the apartment has been replaced with a 30-year lease, despite the fact that it was purchased before 1988. The petitioner contests the retroactive nature of the law and the fact that she has been compensated for loss of the title deeds to her property with a 30-year lease and not the market value of her apartment.

Summary of petition 0255/2010

The petitioner represents an association of homeowners in Alicante whose properties (built in 1960 and 1970) have been affected by the demarcation of the publicly-owned coastal strip under the 1988 Coastal Law. Despite being situated in an established urban community, the buildings have been retroactively placed into public ownership, effectively expropriating their owners.

Summary of petition 0270/2010

The petitioner maintains that the 1988 coastal law is extremely detrimental to his business activities as a result of saltpans being designated as belonging to the coastal strip, thereby devaluing his assets. It is also having an unfavourable environmental impact on the Cádiz Bay Wildlife Park, since the salt workers who are no longer able to conserve or register their properties, are abandoning the saltpans, a development which has in turn over the years been adversely affecting the wildlife park since, in the absence of any measures by the government authorities, the water surface has drastically diminished.

Summary of petition 0341/2010

The petitioner contests the fixing of boundaries in 1995 by the Ministry for the Environment under the 1988 Coastal Law, affecting a commercial centre on the 'Playa del Ingles' on Gran Canaria, which was built in 1975 with all the necessary permits. Following the demarcation procedure, business premises have moved from private to public ownership. The petitioners contest this covert expropriation without compensation of their businesses.

Summary of petition 0395/2010

The petitioner and her family own the Molina Arbina mill dating from 1506 situated in the municipality of Gatika, Biscay. The mill, of which the petitioner and her family were leaseholders, was purchased in 1985 and entered on the property register. The Coastal Law of 1988 and the subsequent boundary demarcation resulted in forfeiture of the property, which was included in the publicly owned coastal strip, in exchange for 30-year lease. Furthermore, the coastal authorities are refusing to carry out necessary repair work on the roof of the mill despite the fact that it has been declared an ethnographic monument by the Gatika municipal council.

Summary of petition 0493/2010

The petitioner expresses concern at the impact of the Coastal Law on the coastal area of Cabanes, indicating that those affected by it contest the new boundaries established in 1993 by the Ministry for the Environment, which are inconsistent with the previous boundaries established in 1975, arguing that they are designed to justify the confiscation of property by the authorities and that they have no means of defence against it, resulting in legal uncertainty.

Summary of petition 0494/2010

The petitioner expresses concern at the impact of the Coastal Law on the coastal area of Candelaria, indicating that in 2008 his home, which had been built in 1953, admittedly for the original purpose of storing fishing tackle, was abolished. He takes the view that the Coastal Law has been implemented in an arbitrary and excessively severe manner. He argues that he has no means of defence against the actions of the authorities, resulting in legal uncertainty.

Summary of petition 0575/2010

The petitioner indicates that the house she purchased in the province of Almería was declared illegal and demolished. She questions the legitimacy of the court which handed down the ruling, maintaining that its proceedings were carried out in secret. The Spanish Constitutional Court in Madrid agreed with the petitioner and overturned the ruling. The petitioner is seeking the support of the European Parliament for her efforts to obtain justice and the restoration of her property.

Summary of petition 0762/2010

The petitioner indicates that in 1995 he purchased a property situated on the esplanade in Balerna, El Ejido, in Almería, which is not included within the coastal strip as demarcated in 1999 and 2007 by the Ministry for the Environment. As a result, his home is considered to be an illegal building and will be demolished unless he is able to obtain an exemption, which has to date been denied.

Summary of petition 0925/2010

The petitioners complain at the authorities' implementation of the Spanish coastal law of 1988, as well as at changes in the demarcation of publicly owned land and the demolition without compensation of houses affected by the law.

Summary of petition 1197/2010

The petitioner indicates that her house in Playa de la Viuda, in the municipality of Candelaria in Tenerife, is affected by the coastal law and is in danger of being demolished. She objects to the retroactive implementation of the law, indicating that her house was built before 1988.

Summary of petition 1312/2010

The petitioner, who owns a home on the Costa de Huelva, which is affected by the Coastal Law, objects to the arbitrary manner in which the demarcation proceedings took place, indicating that, instead of the property deeds to his home, for which purchase proceedings were completed prior to 1988, he has been left with a lease. He also alleges corrupt practice in respect of the demarcation proceedings.

Summary of petition 1328/2010

The petitioner, who represents an association of property owners affected by the Coastal Law, indicates that they have lost their homes following the new demarcation procedure carried out by the Environment Ministry in 2007 resulting in their homes being situated on publicly-owned land. The houses in question are located to the south of the port of Valencia and the shadow affect caused by the new port infrastructures is encroaching on the beach with major implications for the houses concerned, which have been scheduled for demolition because of their vicinity to the sea.

Summary of petition 1540/2010

The petitioner objects to the fact that his home is affected by the demarcation of the public coastal strip extending 100 metres from the shoreline or, in this case, a cliff edge. While contesting the validity of the demarcation, he admits that he does not have planning permission for his house.

Summary of petition 0144/2011

It would appear that the Spanish court of appeal has definitively decided on the coastal border in the marina town of Empuriabrava. In effect, all property owners lose their private moorings without compensation and the coastal path, which runs six metres from the shore, runs through their gardens, sometimes even their living rooms. The petitioners denounce the retro-active application of the Spanish coastal law of 1988 - they bought their property in 1984 - and the lack of compensation for the significant loss in value of their property.

Summary of petition 0200/2011

The petitioner describes the situation at the Empuriabrava marina, which is covered by the Coasts Act. Because of the way in which the Spanish authorities have demarcated the coastal strip concerned, the Empuriabrava marina falls within the scope of the Coasts Act, entailing implications for the properties of the persons affected.

Summary of petition 0472/2011

The petitioner represents the biggest group operating marine salt industry of Spain which is under threat of expropriation of all its sites throughout Spain. Their sites were acquired from the state in the 19th century and have been worked ever since, in full respect of environmental protection principles. Many of them have been designated Special Protection Zones, Natura 2000 and Site of Community Interest, precisely because they have been worked for salt which makes them attractive for wildlife, especially birds. So the sites are perfectly protected from an environmental point of view. Nevertheless, the Spanish government intends to define the limit under the coastal law of 1988 in such a way as to expropriate the owners. He considers this an infringement of their legitimate property rights.

Summary of petition 0540/2011

The petitioner says that at the end of 2009, the Spanish Ministry of the Environment decided that all the *salinas* (salt water lagoons and salt marshes) at Santa Pola (Alicante) should be included in public land, considering that they meet the criteria set out in the Coastal Law No 22/1988. The petitioner believes that this decision is unfounded, because exploitation of the *salinas* is an ideal means of conserving the coastal areas. The petitioner points out that private property rights are being infringed, and that some economic activities are unrestricted.

Summary of petition 0633/2011

The petitioner represents Salinas de Levante S.A., a sea salt mining and production company. He complains that, under the Coastal Law, land belonging to his company risks becoming public land. In his opinion, this decision is unjustified as the land in question is not under sea level and its flooding is intentional. In addition, the salt mines generate their own ecosystems and jobs. Therefore, the petitioner claims that this law is in breach of parts of the Charter of Fundamental Rights of the European Union, the Spanish Constitution and European law.

Summary of petition 0711/2011

The petitioner points out that countless property owners in Empuriabrava have been victims of forced appropriation as a consequence of the implementation of the Spanish Coastal Law (*Ley de Costas*). The town is a 'Little Venice' with canals where there is direct access from the houses to their own moorings. The current plan is to take six metres along the canals for public footpaths and access roads, and since the petitioner is of the view that this is an inadmissible infringement of the right to own property, he calls on the European Parliament to look into the matter.

Summary of petition 1059/2011

The petitioner, a spokesman of the Association 'Basta Ja! Perjudicats per la Llei de Costes de Balears' and on behalf of 5 579 signatures, denounces the abuses suffered by citizens of the Balearic Islands whose properties are affected by Spain's Coastal Law. He specifically points to the arbitrary and retroactive nature of the law, and the ensuing judicial insecurity faced by property owners.

Summary of petition 1060/2011

The petitioner acquired property in a coastal urbanisation known as Casbah, in the locality of El Saler, municipality of Valencia, in 1976. Under the Coastal Law of 1988, the property was expropriated in 2007, having been deemed part of the public maritime terrestrial domain.

Summary of petition 1100/2011

The petitioner fears that authorities will order the demolition of his house, located in the Barrio La Caseta, within the town of Liencres in the municipality of Piélagos, Cantabria. The petitioner and his wife (Spanish) acquired the house in 2000. The petitioner explains that, prior to purchasing the house, his wife went to the city hall and was told by the municipal authorities that the house met all the legal requirements. After the purchase they learnt that the Supreme Court of Justice of Cantabria had previously ruled the land to be public domain, confirming that the housing developments in the Barrio La Caseta were considered illegal since 1986. The petitioner accuses the local authorities of malfeasance, for giving out permits and licenses that were not in accordance with legislation.

Summary of petition 1146/2011

The petitioner denounces the state of abandonment of several beaches in the municipalities of Dénia and Els Poblets (Alicante). The petitioner describes the environmental degradation that is visible in the area, particularly with regards to the regression of the coastline, but also with regards to the houses that are recurrently damaged by sea storms. The petitioner blames the central government of Spain and, specifically, points to licenses and concessions granted for the purpose of activities of extractive and construction nature. The petitioner also observes that the government has only partially executed the Project for the Restoration of the beaches of the Almadrava and Les Deveses, which was approved in 1996. Additionally, the petitioner denounces Spain's Coastal Law (*Ley de Costas*), urges its revision, and asks that the process of demarcation (*deslinde*) of the Public Maritime-Terrestrial Domain be suspended until the beaches are restored.

Summary of petition 1151/2011

The petitioner complains about his property being demarcated within the public maritime-terrestrial domain following Spain's *Ley de Costas* of 1988. The petitioner explains that his

family has owned the property since 1925, and that the land has always been considered urban. Additionally, the petitioner states that the property is not adjacent to the coast, suggesting that the demarcation process does not fulfil the criteria laid out in the law itself.

Summary of petition 0626/2012

The petitioner voices his opposition to Spain's Coastal Law (Ley de Costas), denouncing its retroactive and arbitrary application. He urges the Spanish Government to either return the properties to the owners or pay fair compensation for the expropriations.

2. Admissibility

Petition 0174/2008 declared admissible on 01 July 2008.
Petition 0303/2008 declared admissible on 18 July 2008.
Petition 0867/2008 declared admissible on 11 November 2008.
Petition 1271/2008 declared admissible on 18 February 2009.
Petition 1448/2008 declared admissible on 10 Mars 2009.
Petition 1485/2008 declared admissible on 13 Mars 2009.
Petition 1691/2008 declared admissible on 26 Mars 2009.
Petition 1871/2008 declared admissible on 10 April 2009
Petition 0103/2009 declared admissible on 13 May 2009.
Petition 0119/2009 declared admissible on 13 May 2009.
Petition 0274/2009 declared admissible on 27 May 2009.
Petition 0278/2009 declared admissible on 12 June 2009.
Petition 0279/2009 declared admissible on 12 June 2009.
Petition 0296/2009 declared admissible on 12 June 2009.
Petition 0298/2009 declared admissible on 12 June 2009.
Petition 0389/2009 declared admissible on 23 June 2009.

Information requested from Commission under Rule 192(4).

Petitions 0606/2009, 0611/2009 and 0618/2009 declared admissible on 15 September 2009.
Petition 0626/2009 declared admissible on 16 September 2009.
Petitions 0666/2009 and 0667/2009 declared admissible on 18 September 2009.
Petition 0676/2009 declared admissible on 24 September 2009.
Petition 0708/2009 declared admissible on 30 September 2009.
Petition 0881/2009 declared admissible on 20 October 2009.
Petition 1346/2009 declared admissible on 22 December 2009.
Petition 1499/2009 declared admissible on 25 January 2010.
Petition 1523/2009 declared admissible on 29 January 2010.
Petition 1573/2009 declared admissible on 11 February 2010.
Petition 1625/2009 declared admissible on 19 February 2010.
Petition 1691/2009 declared admissible on 25 February 2010.
Petition 0220/2010 declared admissible on 10 June 2010.
Petitions 0255/2010 and 0270/2010 declared admissible on 17 June 2010.
Petition 0341/2010 declared admissible on 1 July 2010.
Petition 0395/2010 declared admissible on 7 July 2010.
Petitions 0493/2010 and 0494/2010 declared admissible on 10 September 2010.

Petition 0575/2010 declared admissible on 1 October 2010.
 Petition 0762/2010 declared admissible on 3 November 2010.
 Petition 0925/2010 declared admissible on 17 November 2010.
 Petition 1197/2010 declared admissible on 17 January 2011.
 Petition 1312/2010 declared admissible on 8 February 2011.
 Petition 1328/2010 declared admissible on 9 February 2011.
 Petition 1540/2010 declared admissible on 23 March 2011.
 Petition 0144/2011 declared admissible on 18 May 2011.
 Petition 0200/2011 declared admissible on 24 May 2011.
 Petition 0472/2011 declared admissible on 9 September 2011.
 Petition 0540/2011 declared admissible on 19 September 2011.
 Petition 0633/2011 declared admissible on 17 October 2011.
 Petition 0711/2011 declared admissible on 3 November 2011.
 Petitions 1059/2011 and 1060/2011 declared admissible on 17 January 2012.
 Petition 1100/2011 declared admissible on 30 January 2012.
 Petition 1146/2011 declared admissible on 6 February 2012.
 Petition 1151/2011 declared admissible on 22 February 2012.
 Petition 0626/2012 declared admissible on 25 September 2012.

Information requested from Commission under Rule 202(6).

3. Previous Commission replies

Reference of document	Petitions concerned	Date of document
CM 785693	0174/2008, 0303/2008, 0631/2008, 0867/2008, 1448/2008, 1485/2008, 1691/2008, 0103/2009, 0119/2009, 0274/2009, 0278/2009, 0279/2009, 0296/2009, 0298/2009	19.06.2009
CM 829341	1271/2008, 1871/2008, 0389/2009, 0606/2009, 0611/2009, 0618/2009, 0626/2009, 0666/2009, 0667/2009, 0676/2009, 0708/2009, 0881/2009, 1346/2009, 1499/2009, 1573/2009, 1691/2009, 0341/2010	02.09.2010
CM 857205	0160/2009, 0762/2010	11.02.2011
CM 870251	0220/2010, 0255/2010	10.06.2011
CM 870256	0395/2010	10.06.2011
CM 874169	0144/2011	18.07.2011
CM 878994	0119/2009, 0279/2009	30.09.2011
CM 892841	0270/2010, 0472/2011, 0540/2011, 0633/2011	17.02.2012
CM 899819	1523/2009, 1625/2009	20.04.2012
CM 903819	1100/2011	30.05.2012
CM 911553	1146/2011	30.08.2012

4. Commission reply, received on 27 March 2013

Regarding petitions 174/2008, 303/2008, 867/2008, 1271/2008, 1448/2008, 1485/2008,

1691/2008, 1871/2008, 103/2009, 119/2009, 274/2009, 278/2009, 279/2009, 296/2009, 298/2009, 389/2009, 606/2009, 611/2009, 618/2009, 626/2009, 666/2009, 667/2009, 676/2009, 708/2009, 881/2009, 1346/2009, 1499/2009, 1523/2009, 1573/2009, 1625/2009, 1691/2009, 220/2010, 255/2010, 270/2010, 341/2010, 395/2010, 493/2010, 494/2010, 575/2010, 762/2010, 925/2010, 1197/2010, 1312/2010, 1328/2010, 1540/2010, 144/2011, 200/2011, 472/2011, 540/2011, 633/2011, 711/2011, 1059/2011, 1060/2011, 1100/2011, 1146/2011, 1151/2011 and 626/2012

The Commission's observations

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 the many petitions concerning expropriations under the Spanish Coastal Law, there is no EU competence in matters of property law. An examination of the compatibility of the expropriation provisions under the Coastal Law and EU law would be fruitless: 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 recent 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 law¹. 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 coast². Vice-President Viviane Reding, acknowledging the need to protect Spain's coastline, stated that the preliminary draft law would be available online over the following weeks and called on everyone with an interest in this issue – who owns or wants to buy property in Spain for example – to look at the draft law online to understand what these changes would mean. Concerned citizens could also email their concerns to the Spanish authorities³.

This new draft law would extend the period of the existing concession to enjoy possession of properties built in the protected zone from 30 years 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 Spanish government presented a draft law to amend the Coastal Law of 1988 on 5 October 2012. The draft law is still under discussion in the Spanish Parliament.

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

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.

³ Citizens can comment on the draft by emailing to informacionmma@magrama.es.

for the EU to follow up on this matter.

If the petitioner feels that his or her human rights have been violated then he or she 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.