



30.7.2018

## NOTICE TO MEMBERS

**Subject: Petition 1192/2013 by Teresa Vassallo Varela and Marc Bugnard (Spanish) concerning a major infrastructural project in Cadiz, Spain**

### 1. Summary of petition

The petitioners object to a major infrastructural project in the city of Cadiz, Spain, involving the construction of the largest motorway bridge in Europe, a container port and a rail transport service stopping at 35 stations. They take the view that the project will be to the detriment of the region, infringing Regulation 1083/2006, possibly depriving western Andalusia of access to the sea, endangering the Doñana national park, causing job losses in the large industrial area around the Bay of Cadiz and generating unsustainable economic and urban expansion. The project is expected to receive millions of euros from the European Investment Bank and the European Regional Development Fund. The petitioners express doubts regarding the economic viability of the choices made regarding liquid and solid bulk transport and propose alternative solutions. They also question the official explanation for the decision to construct such massive motorway bridge and the compatibility of the entire project with ERDF objectives.

### 2. Admissibility

Declared admissible on 18 March 2014. Information requested from Commission under Rule 216(6).

### 3. Commission reply, received on 27 May 2014

The Commission has the following observations on the different issues where the petitioner claims there is EU funding.

- "*Container Port Cadiz*". This major project is currently under examination by the Commission and no decision has been taken yet on its approval.

- "*Dredging of the Guadalquivir river*". This project, included in the 2007-2013 ERDF Andalucía programme, has not been implemented yet and the Commission decided in 2013 to launch an administrative infringement procedure on the basis of a breach of environmental legislation.

- "*The capacity of the maritime access of western Andalusia*". The petitioner complains that the dredging of the Guadalquivir river (and the development of the Sevilla Port) will be to the detriment of the Cadiz Port. The Commission believes that both ports should have the capacity to develop according to the principles of specialisation and fair competition.

- "*A mix of ERDF funds in Cádiz to adapt the isthmian city to a mobility-concept for cars, imposed by the new Second Bridge*". The Commission clarifies that there is not EU funding for this second bridge (Puente de la Pepa).

- "*A variety of ERDF and EIB funding that sustain the erroneous development*". The petitioner makes reference to two types of interventions included in the 2007-2013 ERDF Andalucía programme: an Urban project aiming at the integrated development of the city (<http://www.ifef.es/urbanacadiz/>) and the projects that the Consorcio zona Franca de Cádiz (EUR 66 million) is implementing in order to achieve the objective of business development in the area.

Cohesion policy is subject to shared management by the Member States and the Commission. According to this principle, the managing authority (Member State) has the competence to select the projects and implement them in accordance with sound financial management rules.

### Conclusion

Except for the dredging of the Guadalquivir river which is already the subject of an infringement procedure, the Commission services have not detected any infringement of EU legislation in the other issues raised by the petitioner. Therefore, there is no legal basis to intervene on the issues raised in this petition.

#### **4. Commission reply (REV), received on 31 October 2017**

The European Regional Development Fund (ERDF) co-financed in the area of the Cadiz Bay different actions selected by the Spanish authorities. The new container terminal is one of the main projects co-financed with the funds received and its expected economic and social benefits.

The new terminal consists of equipping the Port of the Bay of Cádiz with the necessary infrastructures for a modern container terminal, adapted to the new needs of vessels and goods. The terminal is planned to be developed in two phases, with the second phase depending on the evolution of the demand. ERDF was requested for the execution of the first phase of the terminal and for the road access.

ERDF contributed with EUR 64 million to the first phase of the terminal. The uncertainty and the late approval of the financing has made that some actions have been delayed and therefore could not be concluded by the end of 2015 (the last year where funds from the programming period 2007-2013 could have been spent). Nevertheless, in the context of the closure of the period 2007-2013 the Spanish authorities committed to finalise the investment planned, and it

is expected that the ERDF funded infrastructure will be operational by the end of 2019.

From the environmental perspective, of all the issues raised by the petitioner, the Commission has only found indications of an infringement of EU environmental legislation as regards the project for the upgrade of the access to the Port of Seville, entailing the dredging for the deepening and widening of the 90 km long navigation canal on the Guadalquivir River "Eurovía Guadalquivir E-60". The Commission considered that the environmental impact assessment procedure conducted in 2003 failed to appropriately identify the effects of that project on several Natura 2000 sites including the Guadalquivir Estuary and Doñana National Park, as required by the Habitats Directive<sup>1</sup>. Accordingly, the Commission launched infringement proceedings in September 2013, and issued a reasoned opinion in 2015. The services of the Commission have discussed this issue with the Spanish authorities on several occasions.

The Spanish authorities have indicated that no development consent for the project in question has been granted yet. Moreover, they have announced that the project has been suspended and will not be implemented.

### Conclusions

Among the different actions co-financed by the ERDF in the area of the bay of Cadiz, the new container terminal is one of the main projects supported with the funds received and its expected economic and social benefits. The Commission monitors the developments to ensure that the investments to which the Spanish authorities committed are finalised. The ERDF co-financed infrastructure will be operational by March 2019.

The Commission will also ensure that, should the Spanish authorities decide to lift the suspension of the project for the upgrade of the access to the Port of Seville, the relevant provisions of EU environmental law and, in particular, of the Habitats Directive will be duly complied with prior to its implementation.

### **5. Commission reply (REV II), received on 30 July 2018**

Upon Commission's request, the Spanish authorities have indicated that they have withdrawn the proposed dredging activities for the widening and deepening of the navigation canal linking the Port of Seville and the Atlantic Ocean through the Guadalquivir River. At present, only research and scientific activities may be conducted in the Guadalquivir Estuary. The Spanish authorities have added that, should any measure to dredge the navigation canal be considered in view of the conclusions of the ongoing research, the relevant obligations under EU law and conduct shall be complied with prior to granting development consent, and that a new appropriate assessment of should be conducted to ensure the coherence of Natura 2000.

### Conclusion

In view of the withdrawal of the measures to dredge the navigation canal and the commitment

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<sup>1</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora - OJ L 206, 22.7.1992, p. 7–50

to comply with EU environmental law if a similar action is proposed in the future, the infringement of EU law no longer persists. The Commission has therefore closed the infringement procedure.