



21.5.2019

NOTICE TO MEMBERS

Subject: Petition 0908/2006 by Mr Juan Antonio Romero Losana (Spanish), with three signatures, on pollution of the River Andarax (Andalucía) due to uncontrolled discharges of urban waste water

Petition 1763/2012 by David Román Faura (Spanish), on the direct discharge of urban wastewater into the Andarax River (Almería, Spain)

1. Summary of petition 0908/2006

The petitioner maintains that the considerable increase of population in the areas on the low course of Rio Andarax (Andalucía, Spain) has not always been accompanied by proper water treatment infrastructure, which led to uncontrolled discharges of the urban waste water into the river. According to the petitioner, the contamination of the river with nitrates risks posing serious health problem especially because the same river represents a water supply source. The petitioner criticizes the Andalusian Water Agency for not taking any measures to prevent further pollution and considers that the EC Directive 1991/271 concerning urban waste water treatment is not correctly implemented. The petitioner asks Parliament to have the situation investigated.

Summary of petition 1763/2012

The petitioner denounces that, for over three years, urban wastewater from a number of municipalities in Almería, Spain, has been discharging directly into the Andarax River. The petitioner explains that this situation originated with the damaging of a pipe in 2009, during an episode of severe storms. The discharging not threatens public health, but also has a negative impact on the surrounding environment and on a number of Nature2000 sites. The petitioner points to the regional government, the *Junta de Andalucía*, as the competent authority.

2. Admissibility

Petition 0908/2006 declared admissible on 27 March 2007
Petition 1763/2012 declared admissible on 12 July 2013.
Information requested from Commission under Rule 216(6).

3. Commission reply, received on 19 October 2007.

Petition 0908/2006

The petition relates to the pollution of the Rio Guadaira (Andalucia, Spain) due to the lack of urban wastewater treatment in several villages of the area of Bajo Andarax (Almería). The petitioner reports that four out of seven villages in the area of Bajo Andarax are discharging untreated wastewater in the Rio Guadaira which feeds aquifers which are used for the abstraction of drinking water.

According to the petitioner, several complaints to, and communications with, local and regional authorities have remained unsuccessful.

The petitioner asks the European Parliament to investigate any potential breach of the Wastewater Treatment Directive, 91/271/EEC¹.

Comments from the Commission

Directive 91/271/EEC concerning urban wastewater treatment is, indeed, the relevant legislation as it establishes the framework for the collection and treatment of urban wastewater in the Community.

Articles 3 and 4 require that all agglomerations with a load of between 2,000 and 15,000 population-equivalent (p.e.) discharging into fresh waters be equipped with collecting systems and a wastewater treatment facility (providing at least secondary treatment) by 31 December 2005.

Article 7 requires that urban wastewater entering collecting systems should, before discharge, be subject to appropriate treatment, for discharges to fresh waters from agglomerations of less than 2000 p.e.

From the documentation provided, the Commission could identify the seven following villages, part of the "Mancomunidad del Bajo Andarax": Viator, Gádor, Rioja, Benahadux, Pechina, Huércal de Almería and Santa Fe de Mondújar. According to various Internet sources², in 2006, these villages accounted for a population of between 2,000 and 15,000. (except Santa Fe de Mondújar which is smaller).

Therefore, the Commission is of the opinion that all these villages (except Santa Fe de Mondújar) should have been equipped with collecting systems and secondary treatment installations for their wastewater by, at the latest, 31 December 2005.

¹ Directive 91/271/EEC concerning urban wastewater treatment (OJ L 135, 30.05.1991, p. 40).

² es.wikipedia.org and www.juntadeandalucia.es.

In addition, before the same deadline, the wastewater entering the collecting systems in Santa Fe de Mondújar should have been submitted to the required treatment.

A reporting exercise under Article 15 of directive 91/271/EEC is currently ongoing. It aims at collecting detailed information on the situation of European agglomerations with a size of more than 2,000 population-equivalent with regards to urban waste water collection and treatment. In particular, it will allow the assessment of the compliance of these agglomerations with the requirements set out in the directive. Results are expected mid 2008.

Conclusion

The Commission is of the opinion that the agglomerations referred to by the petitioner are subject to the 2005 deadline requirements set out in Directive 91/271/EEC. The Commission has already launched the EU-wide reporting exercise which will allow the assessment of compliance of European agglomerations with this deadline and will keep the Committee on Petitions informed of the result of this exercise as regards the agglomerations which are the subject of this petition.

4. REV Commission reply, received on 2 September 2010.

Petition 0908/2006

The Commission has assessed the latest statistical data from the Spanish Statistical Office and has requested information under article 15(4) of the Urban Waste Water Treatment Directive¹ from Spain and all other Member States.

On the basis of this data, the Commission has come to the following conclusions:

- Two of the settlement areas ('agglomerations' Rioja and Santa Fe de Mondújar) have a population of less than 2 000 inhabitants and are not subject to the obligations of the Urban Waste Water Treatment Directive. However, under the Water Framework Directive² the affected Rio Andarax River will have to meet good status as a rule by 2015 and the necessary measures be set out in the plans and programmes of that Directive;
- Five of the settlement areas ('agglomerations' Viator, Gádor, Benahadux, Pechina and Huércal de Almería, have a population of more than 2 000 inhabitants and are subject to the obligations of the Urban Waste Water Treatment Directive. According to information received from the Spanish authorities in 2010, these agglomerations have not yet met the required waste water treatment standards set out in the Directive.

Conclusion

As stated, the petition addresses the lack of waste water treatment in 7 settlement areas.

Two settlement areas ('agglomerations' Rioja and Santa Fe de Mondújar) are not subject to the

¹ Directive 91/271/EEC, OJ L135 of 30.5.1991.

² Directive 2000/60/EC, OJ L327 of 22.12.2000.

obligations of the Urban Waste Water Treatment Directive. However, given that Spain has not reported the River Basin Management Plans under the Water Framework Directive within the deadline of 22 March 2010, the Commission has commenced a legal infringement and sent a first written warning to Spain in May 2010¹.

Five settlement areas ('agglomerations' Viator, Gádor, Benahadux, Pechina and Huércal de Almería) are subject to the obligations of the Urban Waste Water Treatment Directive, but appear not to be in compliance with the directive. The Commission will consider the necessary measures to take including, where appropriate, infringement procedures against Spain for non-compliance with the Urban Waste Water Treatment Directive.

5. REVII Commission reply, received on 17 February 2012.

Petition 0908/2006

The petition addressed the lack of waste water treatment in seven agglomerations supposedly polluting the River Andarax. The Commission acknowledged the possibility that these agglomerations were in breach of the provisions laid down by the Water Framework Directive² and/or by the Urban Waste Water Treatment Directive³.

With regard to the Water Framework Directive, on 27 July 2011⁴ the Commission initiated Court proceedings against Spain for its failure to fulfil its obligations under Articles 13(1), (2), (3) and (6), (14)(1)(c) and 15(1) of the Directive.

With regard to the compliance of small agglomerations with the provisions of the Urban Waste Water Directive, the Commission has launched an enquiry requesting information from the Spanish authorities about the status of compliance in a number of Spanish agglomerations, including those that were highlighted in the last communication from the Commission (i.e. Viator, Gádor, Benahadux, Pechina and Huércal de Almería).

6. REV III Commission reply, received on 30 January 2013.

Petition 0908/2006

The Commission had informed the European Parliament that it had initiated Court proceedings against Spain for its failure to fulfill its obligations under the Water Framework Directive⁵, in particular for not having adopted Management Plans for the Spanish River Basins, including the area concerned by the petition.

¹ Commission press release of 5 May 2010:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/528&format=HTML&aged=0&language=EN&guiLanguage=en>.

² Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy OJ L 327, 22.12.2000.

³ Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment, OJ L 135, 30.5.1991.

⁴ European Court of Justice, Case C-403/11.

⁵ 2000/60/EC, OJ L 327, 22.12.2000.

In this case (C-403/11), the Court of Justice of the EU has ruled that Spain failed to fulfill the obligations laid down by the EU Water Framework Directive, by not having adopted Management Plans for all Spanish River Basins.

The Commission has taken action on the subject matter of this petition and will now monitor when and how Spain will implement the ruling of the Court of Justice.

7. REV IV Commission reply, received on 31 January 2014.

Petitions 0908/2006 and 1763/2012

Petition 908/2006 drew the attention of the European Parliament to the possible infringement of the Urban Waste Water Treatment Directive (UWWTD)¹, due to the lack of treatment of waste water in some agglomerations discharging into the area of the River Andarax (Almería, Spain). The Commission raised its concerns on these and similar situations in its Letter of Formal Notice of 22.6.2012 addressed to the Spanish authorities. The information received is being assessed.

Petition 1763/2012, in addition, indicates that the joint system that collects and conducts urban waste water from a number of settlements discharging into the area of the River Andarax to the treatment plant, is broken. The settlements concerned are Rágol, Instinción, Íllar, Bentarique and Huécija.

The information published by the Spanish Statistical Office², shows that the population registered in each of these settlements is very low and that, therefore, very few obligations laid down by the UWWTD would be applicable to each of them would they be individually considered.

On the other hand, according to the information provided by the Spanish authorities to the Commission within the last reporting exercise, these and others settlements have been grouped into an agglomeration named "Medio Andarax," in order to ensure the provision of waste water treatment services. Since the declared pollution load of this agglomeration is 13.581 pe, there is an obligation to ensure the collection and treatment of this entire load. Partial treatment only would not be in compliance with the Directive.

Conclusions

The Commission has taken measures to address the situation described in Petition 908/2006.

As regards Petition 1763/2012, the Commission reiterates the crucial role that local and regional authorities have to play to ensure the compliance with the relevant provisions in the Directive, above all in cases involving small settlements, as this one. In any case, the Commission will consider the necessary steps to ensure that appropriate measures to tackle this possible non-compliant situation are taken.

8. Commission reply (REV V), received on 30 July 2014.

In Petition 1763/2012, the Petitioner indicated (at the end of 2012) that, already since December 2009 and due to heavy rains, the pipe conducting waste waters from several small

¹ Directive 91/271/EEC

² <http://www.ine.es/jaxi/tabla.do?path=/t20/e260/a2012/10/&file=mun04.px&type=pcaxis&L=0>

villages being part of the agglomeration named "Medio Andarax" was damaged, and all the waste water generated by these villages was directly discharged into the river Andarax, without any treatment. It means that such polluting discharges may have taken place at least during three years (end 2009 to end 2012), and consequently the agglomeration would be in breach with the Urban Waste Water Treatment Directive (UWWTD)¹, at least during that period.

The Commission has further investigated, with the support of the Spanish Authorities, and has checked the most recent reported data on implementation of the UWWTD (reference year 2012) which the Spanish Authorities have submitted in June 2014. The agglomeration "Medio Andarax" has been reported to be fully compliant with collection and secondary treatment (arts 3 and 4 respectively of the UWWTD) during the year 2012.

In respect of compliance with the ruling of the Court of Justice in case C-403/11, the River Basin Management Plan (RBMP) of the Mediterranean Basins of Andalucía was approved in September 2012.

Conclusions

The information provided by the Petitioner and by the Spanish Authorities for "Medio Andarax" seems to be contradictory. Whilst the information by the Petitioner indicates a situation of non-compliance during a period of time of three years, the Authorities have recently reported, for 2012, a situation of full compliance with the UWWTD.

The Commission will therefore contact the Spanish Authorities in order to clarify this situation.

9. Commission reply (REV VI), received on 30 January 2015.

The Commission has asked the Spanish Authorities through EU Pilot for further explanations about the pollution by waste water of the river Andarax due to possible damage to a nearby collecting system.

The Authorities have recently confirmed that since the end of 2009 the pipes which conducted and connected the waste waters generated by the agglomeration "Medio Andarax" to a treatment plant were destroyed due to floods.

The Authorities at provincial level have partially restored the conduction of waste water from eight villages which are part of this agglomeration; however, restoration works have not started yet for another 4 villages, in which approximately 11500 meters of pipes would have to be replaced, 25 manholes would have to be constructed and adequate protection for the collecting system (facing eventual floods) would have to be provided. These works are considered a priority by the Autonomous Government, who will be responsible for their execution as soon as the related project is finished. Tendering procedure is currently on-going.

Conclusions

¹ Directive 91/271/EEC

The Spanish Authorities have recognised significant damages due to floods in the collecting system serving the agglomeration "Medio Andarax". The damages have given place to a situation of non-compliance with the Urban Waste Water Treatment Directive (UWWTD)¹.

This situation seems to already be partially solved and further steps are under way to solve it entirely. Meanwhile, the Commission will continue to follow the developments under a "horizontal" EU Pilot investigation (including other Spanish agglomerations in a possible situation of non-compliance with the UWWTD), for which the Authorities have recently provided a reply that is currently under assessment by the Commission services.

10. Commission reply (REV VII), received on 30 June 2015.

Petitions 908/2006 and 1763/2012

Having been asked about the pollution by waste water in the river Andarax under an individual EU Pilot request, the Spanish Authorities replied that such pollution was due to the damages caused by floods in the collecting system serving the agglomeration named "Medio Andarax". These damages have led to a situation of non-compliance with the Urban Waste Water Treatment Directive (UWWTD)², more precisely with articles 3 (collection) and 4 (secondary treatment).

The situation seems to be only partially solved by now, which means that lack of compliance with the Directive in the above-mentioned agglomeration still remains.

Conclusions

The agglomeration concerned is now part of a "horizontal" EU Pilot, together with other non-compliant agglomerations in Spain. The Commission is currently assessing all aspects of the information provided by the Spanish authorities and will decide on the basis of the results of the assessment if further follow up measures are to be taken.

11. Commission reply (REV VIII), received on 31 January 2017.

Petitions 0908/2006 and 1732/2012

In their latest reply to the Commission's enquiry, the Spanish authorities acknowledged that the stretch of the sewer collector which was destroyed after the floods of late 2009 had not been repaired yet. This issue has caused the interruption of the wastewater conduction to the treatment plant, therefore resulting in untreated waste water discharges.

Conclusion

It seems that the Spanish authorities have not yet solved the long-standing problem with the aforementioned collecting system, which would imply a breach of Directive 91/271/EEC. Consequently, the agglomeration of Andarax has been included in a comprehensive infringement procedure which covers this and other Spanish agglomerations also found to be in breach of the Directive. This procedure against Spain was launched by the Commission in December 2016.

¹ Directive 91/271/EEC

² Directive 91/271/EEC

12. Commission reply (REV IX), received on 31 July 2017.

Petitions 0908/2006 and 1763/2012

This breach of Directive 91/271/EEC was already included in a horizontal infringement procedure against Spain, launched by the Commission in December 2016.

The Commission has recently received from the Spanish authorities a reply to the Letter of Formal Notice submitted under the aforementioned infringement procedure, 2016/2134, in which the agglomeration of Andarax was included. The Commission services are currently assessing the information received.

Conclusion

Upon finalization of the assessment, the Commission will decide on the appropriate follow up under the aforementioned legal procedure.

13. Commission reply (REV X), received on 29 November 2017.

Petitions 0908/2006 and 1763/2012

The agglomeration of Andarax is already included in a horizontal infringement procedure against Spain. The reply to the corresponding Letter of Formal Notice is still under assessment, as already indicated in previous communications.

The Commission has recently found, on the basis of the information submitted by the Spanish authorities under the last Report on Implementation of Directive 91/271/EEC, that another agglomeration referred to in these petitions named Almería-Bajo Andarax is also in a situation of non-compliance with its collecting and treatment obligations. The Commission has launched, in October 2017, a new horizontal infringement procedure against Spain including this and other Spanish agglomerations that were also found to be in non-compliance with the Directive in the aforementioned Report, which will be published by the end of 2016.

Conclusion

Upon finalization of the assessment of the Spanish replies to the two above-mentioned infringement procedures, the Commission will decide on the appropriate follow up under these procedures.

14. Commission reply (REV XI), received on 21 May 2019.

Petitions 0908/2006 and 1763/2012

The Commission has carried out a preliminary assessment of the latest information provided by the Spanish authorities in the framework of the two ongoing, horizontal infringement procedures

against Spain under the urban waste water treatment Directive¹, in which the agglomerations named “Medio Andarax” and “Bajo Andarax” are included.

Based on these preliminary assessments, both agglomerations appear to be still in breach of the Directive’s requirements.

Conclusion

The Commission will thus continue to closely monitor the level of compliance achieved in these and other agglomerations in the context of the above-mentioned infringement procedure.

¹ Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment, *OJ L 135, 30.5.1991, p. 40–52.*