



21.5.2019

## NOTICE TO MEMBERS

**Subject: Petition 0808/2006 by Mr Pedro Domínguez Gento (Spanish), on the pollution of the river Júcar**

### 1. Summary of petition

The petitioner protests against the lack of measures to prevent the further pollution of the river Júcar. According to him, the river is heavily polluted causing the death of the fish population. The petitioner asks the European Parliament to intervene and have local authorities punish those responsible and taking all the measures necessary for redressing the quality of the water.

### 2. Admissibility

Declared admissible on 22 February 2007. Information requested from Commission under Rule 216(6).

### 3. Commission reply, received on 17 April 2008.

Mr. Pedro Domínguez Gento sent a petition to the European Parliament to complain about repeated fish deaths in the River Júcar, Spain. He claims there have been three incidents of fish deaths in less than two months near the towns of Alzira and Sueca and that where this has happened on other occasions in previous years, the authorities have remained passive. The petitioner attributes these events to the low flow in the river and to the probable presence of toxic discharges and asks the EU institutions to request information from the Spanish authorities regarding: what measures are being taken to avoid these incidents; whether or not those responsible have been identified and if there is any penalty foreseen.

Fish deaths can be due to different reasons. In many cases they are linked to discharges of inadequately treated wastewater. The Water Framework Directive (WFD), 2000/60/EC<sup>1</sup>, published in December 2000, establishes the need for detailed planning on the use of water resources to avoid non sustainable solutions and irreversible damage to the environment,

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<sup>1</sup> OJ L 327, 22.12.2000, p. 1-73.

through the development of River Basin Management Plans (RBMP). In accordance with the WFD, the first RBMP will be published by December 2009. The general objective of the WFD, as set in out Article 4, is to achieve good status in all waters by 2015. As a first step towards the RBMP, Article 5 of the WFD required Member States to undertake, by December 2004, a review of the impact of human activity on the status of surface and groundwater. The objective of the review was to identify the water bodies at risk of not achieving the objectives of the directive. Ultimately, water bodies at risk will be subject to the programme of measures of the directive in order to achieve good status by 2015. The Spanish authorities have submitted a summary of the Article 5 report to the Commission. The report for the Júcar Basin identifies the River Júcar as being "at risk", meaning that appropriate measures to achieve good status should be included in the RBMP in 2009. According to the information in the Article 5 report, important discharges of insufficiently treated urban wastewater are present in this stretch of the River Júcar. The level of pressure due to discharges is, therefore, qualified as "very high". In this regard, two horizontal infringement procedures against Spain are on-going for the lack of proper implementation of the Urban WasteWater Treatment Directive 91/271/EEC<sup>1</sup>. They concern the lack of compliance with the requirements on urban wastewater collection and treatment for many Spanish agglomerations. The discharges of Alzira and Sueca are, among others, in the Júcar Basin, included in the infringement procedure for discharges larger than 10.000 population equivalents in sensitive areas.

One of the most likely causes of the fish deaths described in the petition is the lack of appropriate treatment of the urban wastewater of the agglomerations along the River Júcar. This problem is already being dealt with by the Commission in the framework of an infringement procedure (infringement of Directive 91/271/EEC). As for the river basin management plans under the Water Framework Directive 2000/60/EC, the Commission will carefully scrutinise these in order to ensure that the appropriate measures to achieve good status are taken.

#### **4. Commission reply, received on 1 September 2009**

In its earlier communication, the Commission elaborated

- about the sources of fish mortality,
- about the legal framework within EU environmental legislation (Water Framework Directive<sup>2</sup>, Urban Waste Water Treatment Directive<sup>3</sup>), and about ongoing legal infringement procedures against Spain.

Following its meeting of 30 April 2009, the Committee on Petitions requested information on the state of infringement procedures against Spain.

The agglomeration of Alzira, together with a range of other agglomerations, is the subject of a horizontal infringement procedure against Spain<sup>4</sup> for alleged breach of the Urban Waste Water Treatment Directive. The Commission has on 27 November 2008 delivered a Reasoned

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<sup>1</sup> OJ L 135, 30.5.1991, p. 40-52.

<sup>2</sup> Directive 2000/60/EC, OJ L327 of 22.12.2000, as amended.

<sup>3</sup> Directive 91/271EEC, OJ L135 of 30.5.1991, as amended.

<sup>4</sup> Infringement procedure 2002-2123 for non-compliance with the provisions of Directive 91/271/EEC in 'sensitive areas'.

Opinion (second and final written warning)<sup>1</sup> under article 226 of the Treaty. The Commission is currently assessing the reply received from the Spanish authorities addressing several hundreds of agglomerations, and will after completion of the assessment consider the necessary steps including an application to the Court of Justice.

The agglomeration of Sueca is already the subject of a judgment by the Court of Justice<sup>2</sup> stating that Spain has failed to comply with its obligations under the Urban Waste Water Treatment Directive by not taking the necessary measures inter alia for the agglomeration of Sueca. The Commission has commenced a procedure under article 228 of the Treaty.

#### **5. Commission reply, received on 2 September 2010**

In its earlier communication the Commission referred to ongoing horizontal infringement procedures against Spain for the improper application of the Urban Waste Water Treatment Directive<sup>3</sup>. Following the issuing of Reasoned Opinions, the Commission, in one of the cases, decided in May 2010 to refer Spain to the European Court of Justice<sup>4</sup>. The second case, also addressing a range of agglomerations, is under evaluation.

On the Water Framework Directive<sup>5</sup>, plans and programmes to achieve the environmental objective and define the necessary measures had to be developed by 22 December 2009 and reported to the Commission by 22 March 2010. Given that the Spanish authorities have not met these obligations, the Commission has commenced a legal infringement procedure and sent a first warning to Spain<sup>6</sup>. The Commission will continue the legal procedure and, where necessary, refer the case to the European Court of Justice.

#### **6. REV 3 Commission reply, received on 20 April 2012**

In previous communications, the Commission referred to infringement procedures against Spain for the improper application of the Urban Waste Water Treatment Directive 91/271/EEC<sup>7</sup> and of the Water Framework Directive 2000/60/EC<sup>8</sup>.

In April 2011<sup>9</sup>, the European Court of Justice found that Spain had failed to meet the obligations on collection and treatment imposed by the Waste Water Directive. The ruling

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<sup>1</sup> <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/1802&format=HTML&aged=0&language=EN&guiLanguage=en>.

<sup>2</sup> Judgment in case C-219/05, <http://curia.europa.eu/>.

<sup>3</sup> OJ L 135, 30.5.1991, p. 40-52.

<sup>4</sup> Press

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

<sup>5</sup> OJ L 327, 22.12.2000, p. 1-73.

<sup>6</sup> Press release:

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/685&format=HTML&aged=0&language=EN&guiLanguage=en>.

<sup>7</sup> OJ L 135, 30.5.1991, p. 40-52.

<sup>8</sup> OJ L 327, 22.12.2000, p. 1-73.

<sup>9</sup> Case C-343/10.

lists six agglomerations in the area covered by the River Júcar basin management authority<sup>1</sup>, although none of them directly discharging into the river.

Regarding the obligations laid down by this directive on the treatment of waste water from agglomerations discharging into sensitive areas, the Commission decided, on 16 June 2011, to launch proceedings against Spain before the European Court of Justice (case 2002/2123).

Moreover, the Commission requested the Spanish authorities to provide more detailed information on a number of small agglomerations as regards their fulfilment of the obligations laid down by the Urban Waste Water Treatment Directive. A number of agglomerations in the area covered by the River Júcar basin management authority are included.

With regard to the Water Framework Directive, the Commission has taken Spain to the European Court of Justice for not having adopted the Management Plans for the Spanish River Basins, including the one for the area covered by the River Júcar basin management authority<sup>2</sup>.

### Conclusion

The Commission expects that the resolution of these legal cases will lead to the adoption of proper measures to tackle pollution problems in the River Júcar.

#### **7. Commission reply (REV.IV), received on 29 November 2013**

The European Court of Justice ruled in 2012 that Spain had failed to fulfill its obligations under the Water Framework Directive<sup>3</sup> as regards the adoption of River Basin Management Plans, inter alia for the River Júcar.<sup>4</sup>

The Commission considers that, at present, Spain has not taken all the necessary measures to comply with the judgment of 4 October 2012, also as regards the Management Plan corresponding to the Júcar River Basin District. As a consequence, the Commission formally raised its concerns in a letter of formal notice issued under Article 260 of Treaty on the Functioning of the European Union on 25th of March 2013.

### Conclusion

The Commission expects that the adoption of the corresponding River Basin Management Plan and, in any event, the resolution of still pending legal cases, will lead to the implementation of proper measures to tackle pollution problems in the River Júcar.

#### **8. Commission reply (REV.V), received on 28 November 2014**

The Júcar River Basin Management Plan has been adopted on 11 July 2014. The Commission

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<sup>1</sup> Confederación Hidrográfica del Júcar.

<sup>2</sup> Infringement procedure 2010/2083. Application to the Court issued the 25<sup>th</sup> of July 2011.

<sup>3</sup> OJ L 327, 22.12.2000, p. 1-73.

<sup>4</sup> Ruling in Case C-403/11, Commission v. Spain, of 4 October 2012.

is currently assessing the content of the plan and its compliance with the requirements of the Water Framework Directive (WFD)<sup>1</sup>.

A preliminary assessment is being finalised and following the approach taken with all other Member States, the results of this assessment will be subject of a bilateral discussion between the Commission services and the Spanish authorities. The Commission will then publish its findings and decide on appropriate further actions.

#### **9. Commission reply (REV.VI), received on 29 April 2015**

The Water Framework Directive (WFD<sup>2</sup>) requires Member States to identify in their River Basin Management Plans (RBMP) appropriate measures to achieve the environmental objectives of the WFD.

The Júcar River Basin Management Plan, adopted in October 2014, contains a number of measures to improve water quality, including the establishment of an environmental flow.

In March 2015 the Commission published its assessment of the first Spanish River Basin Management Plans (RBMP)<sup>3</sup>. This report includes a number of recommendations addressed to the Spanish authorities in order to improve implementation.

In previous communications, the Commission referred to horizontal infringement procedures against Spain for the improper application of the Urban Waste Water Treatment Directive 91/271/EEC<sup>4</sup>, in the agglomerations of Alzira and Sueca. According to the latest information available, these two agglomerations are now in compliance with the Urban Waste Water Treatment Directive and are therefore no longer part of these horizontal infringement procedures.

#### Conclusion

Following the recent publication of the assessment report, the Commission will determine the most appropriate follow-up to improve the implementation of the WFD in Spain, in particular in view of the next River Basin Management Plans, which should be adopted by the end of 2015.

#### **10. Commission reply (REV.VII), received on 27 April 2018**

The 2<sup>nd</sup> River Basin Management Plan for the Júcar River Basin District was adopted by Spain in December 2015. The electronic reporting to the Commission was concluded in June 2017 and the Commission is currently assessing it, together with the River Basin Management Plans for all EU River Basin Districts.

The conclusions of this assessment will form the basis of the upcoming Report on the implementation of the Water Framework Directive, which is due, in accordance with Article 18

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<sup>1</sup> OJ L 327, 22/12/2000 p. 1-73

<sup>2</sup> OJ L 327, 22.12.2000

<sup>3</sup> Commission Staff Working Document SWD(2015) 56 final available at [http://ec.europa.eu/environment/water/water-framework/impl\\_reports.htm#fourth](http://ec.europa.eu/environment/water/water-framework/impl_reports.htm#fourth)

<sup>4</sup> OJ L 135, 30.5.1991, p. 40

of the Directive, in December 2018. The Commission expects, however, to be able to produce it by the summer of 2018.

When assessing the 2<sup>nd</sup> River Basin Management Plans, the Commission is paying particular attention to the way in which the recommendations made following the assessment of the 1<sup>st</sup> Plans have been taken into account.

### Conclusion

The Commission is currently finalising the assessment of the 2<sup>nd</sup> River Basin Management Plans and expects to produce a report on the implementation of the Water Framework Directive in the summer of 2018. On the basis of the conclusions of the assessment, the Commission will decide, for each Member State, on the most adequate follow-up actions.

## **11. Commission reply (REV.VIII), received on 21 May 2019**

The Commission has conducted a general assessment of the second River Basin Management Plan according to the Water Framework Directive<sup>1</sup>, including the one for the Júcar basin. The Commission published in February 2019 the corresponding implementation report<sup>2</sup> to Parliament and the Council, underpinned by assessments per Member State. The assessment for Spain<sup>3</sup> concludes that there have been improvements in the assessment of significant pressures in surface water bodies and consequently, there is a more detailed analysis of those pressures. Numerical tools, such as modelling, have been used for the Júcar basin, making the exercise more robust than in other districts where only expert judgment was used. Also, in this basin the number of monitored priority substances is high (i.e. polluting substances that present a significant risk to the aquatic environment). The Commission's assessment report for Spain, more generally, points to the need for increasing transparency in the application of exemptions and their justification.

The petitioner can find specific information on the water bodies corresponding to the Júcar river reaches near the municipalities of Alzira and Sueca in the updated Júcar River Management Plan<sup>4</sup>. According to the plan, these water bodies are not at good status. However, the Spanish authorities have applied an extension to achieve environmental objectives according to Article 4(4) of the Water Framework Directive, and are implementing measures to address the identified pressures (such as point-source and diffuse pollution). These water bodies are expected to reach good status in the period 2022-2027.

### Conclusion

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<sup>1</sup> 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*.

<sup>2</sup> [http://ec.europa.eu/environment/water/water-framework/impl\\_reports.htm](http://ec.europa.eu/environment/water/water-framework/impl_reports.htm)

<sup>3</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=SWD:2019:42:FIN&qid=1551205988853&from=EN>

<sup>4</sup> [www.chj.es](http://www.chj.es)

The impact of the ongoing and planned measures included in the Programme of Measures of the Júcar River Basin Management Plan to address significant pressures will need to be monitored and assessed by the Spanish authorities.