



31.10.2018

## NOTICE TO MEMBERS

**Subject: Petition No 0812/2017 by Patricio Oschlies Serrano (Spanish) on Białowieża forest in Poland**

### 1. Summary of petition

The petitioner condemns the deforestation of Białowieża forest and the indiscriminate felling of trees, and requests that this forest area be placed under protection as soon as possible.

### 2. Admissibility

Declared admissible on 5 December 2017. Information requested from Commission under Rule 216(6).

### 3. Commission reply, received on 30 May 2018

In July 2017, the Commission referred Poland to the Court of Justice of the European Union (CJEU) over logging in the Białowieża Forest, one of the last remaining primeval forest complex in Europe and a Natura 2000 site (case C-441/17). The Commission considered that the increased logging was in breach of the Habitats and Birds Directives.<sup>1</sup>

In parallel, the Commission also asked the CJEU to order interim measures under Article 279 of

---

<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, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31992L0043>; and Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, OJ L 20, 26.1.2010, p. 7–25, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009L0147>.

the Treaty on the Functioning of the European Union (case C-441/17 R). Under this Article, the CJEU may order the Member State to stop immediately some activities to prevent serious and irreparable damage to the environment until the judgement in the main case is delivered. The definitive order on interim measures issued by the CJEU on 20 November 2017 required Poland to stop certain active forest management operations in the Białowieża Forest. The order provided a narrowly drawn exception for measures necessary to protect human health. The Commission monitored compliance with this interim measures order as long as it was in force, i.e. until the judgement in the main case was delivered.

The judgement in the main case was delivered on 17 April 2018. The CJEU upheld all the claims formulated by the Commission. The Court found that the Polish authorities had decided to increase logging and to carry out active forest management in areas so far excluded from any intervention without having ascertained that these measures would not adversely affect the conservation values of the Białowieża Forest site. The CJEU also declared that Poland failed to take the necessary conservation measures corresponding to the ecological requirements of the natural habitat types and the species for which the Białowieża Forest Natura 2000 site was designated. Finally, the CJEU found that Poland failed to guarantee the strict protection of the saproxylic beetles protected under the Habitats Directive and failed to protect the relevant species of birds referred to in the Birds Directive.

#### Conclusion

The Commission will work in close cooperation with the Polish authorities to ensure that the judgment is fully implemented and to ensure the long-term conservation of this unique site.

#### **4. Commission reply (REV), received on 31 October 2018**

By letters dated 18 June 2018 and 17 July 2018, Poland informed the Commission services of the measures taken in order to comply with the terms of the judgment of 17 April 2018 in case C-441/17.

In particular, Decision No 51 of 17 February 2017 of the Director-General for State Forests concerning the removal of trees colonised by the spruce bark beetle and the harvesting of trees constituting a threat to public safety and posing a fire risk, in all age classes of forest stands in the Natura 2000 site Białowieża Forest, was repealed on 17 May 2018.

According to the information available, the only activities carried out at the moment in the Białowieża Forest are those aimed to ensure public safety and which have not been called into question in the judgment. Timber harvesting, which results from actions aimed to ensure public safety, may not exceed the limits established in the Forest Management Plans (FMP). Any further harvesting resulting from the necessary actions outlined above may be conducted only following the adoption of new documents constituting annexes to the current Forest Management Plans. The drafting of these annexes is ongoing and the revised annexes will undergo an assessment procedure in accordance with the requirements of the EU environmental law.

#### Conclusion

The Commission is taking the necessary steps to ensure that the judgment is fully implemented and to ensure the long-term conservation of this unique site.