



31.10.2018

NOTICE TO MEMBERS

Subject: Petition No 0207/2018 by Robert Latimer (British) on the contamination of Whitburn beach, UK

1. Summary of petition

The petitioner refers to a complaint submitted to the European Commission in 2000 concerning sewage found in the sea and on the beach at Whitburn in the UK. The Commission brought the case to the CJEU which determined in 2012 that the UK was in breach of Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment. It appears that the failure to ensure that appropriate collecting systems were in place led to the contamination of Whitburn beach. The UK government was given 5 years to rectify the problem, until December 2017. The petitioner complains that during that time, the pollution of the beach with sewage has continued; he further claims that pollution is still ongoing despite the completion of the remedial works. In the petitioner's view, the initial construction design of the collection system was flawed and never met the requirement of the initial licence. He concludes that the data brought by the Commission to the CJEU was therefore flawed, and that the UK is still in breach of Directive 91/271/EEC. He asks that a comprehensive and independently scrutinised review of the structure and capacity of the sewage system be undertaken to ensure its compliance with Directive 91/271/EEC.

2. Admissibility

Declared admissible on 2 July 2018. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 31 October 2018

The Commission's observations

The Commission brought an infringement case, which resulted in a judgment against the United Kingdom on 18 October 2012 (Court of Justice of the European Union (CJEU), Case

C-301/10, *Commission v. United Kingdom*). This was a test case brought under Directive 91/271/EEC concerning urban waste water treatment with regard to the assessment of storm water overflows. The case focused on the situation in London and Whitburn. The petitioner was the main complainant with regard to Whitburn.

Since the judgment, the Commission has been in regular contact with the United Kingdom authorities with regard to the implementation of improvement works and was informed that the improvement upgrades in Whitburn were completed in December 2017. Since then, the Commission has been awaiting data from the United Kingdom to verify if as a result of these improvement works, the overflows have reduced to a level compliant with Directive 91/271/EEC.

The results of monitoring for the first half of 2018 were recently made available to the Commission. These show that overflows from the St Peter's Pumping Station discharge point have significantly decreased with only three spills having been recorded in the first 7 months of 2018. This compares with over 50 for each of the previous two years.

However, for the Whitburn Long Sea Outfall, the situation showed that up to end August 2018 there were still quite high numbers of spills (13 in total), with quite high spill volumes (298,380 m³ in total). The UK authorities explained to the Commission that 11 of these spills were due to unusually heavy snowfall. A further two spills were due to heavy rainstorms. UK authorities explained that in the circumstances they were pleased with how the system had performed under such pressure. The Commission however remains concerned about the relatively high rates and volumes of spill recorded from the Whitburn Long Sea Outfall. The complainant has been kept informed.

It should however be noted that the petitioner (who is also the main complainant in the Whitburn case) has concerns that go beyond the scope of both the judgment and the Directive. The petitioner has repeatedly asked the Commission to intervene in the overall permitting and design of the Whitburn system, in particular raising concerns that waste waters are being pumped around the collecting system too often and for too long, in breach of the national licence issued for this system. The Commission has repeatedly explained that this is a matter for the national authorities. The Commission's case focuses on the situation where the collecting system spills untreated wastewater into the environment as this matter is covered by EU law. This was confirmed by the CJEU in its judgment in Case C-301/10, but was previously disputed by the United Kingdom.

Conclusion

The Commission will continue to pursue this matter with the United Kingdom, but can do so only within the confines of EU law.