



15.04.2019

NOTICE TO MEMBERS

Subject: Petition No 0557/2018 by Francesc Josep Casellas Van Brouwershaven (Spanish) concerning the operation of a restaurant in a Natura 2000 area belonging to the Serra Gelada natural park

1. Summary of petition

The petitioner complains about the operation of a restaurant in a Natura 2000 area ‘Serra Gelada di Marina Baixa’ (ES52130021). According to the petitioner, this restaurant is operating completely illegally since it does not have a licence and pollutes the surroundings, causing serious environmental damage to the island’s coastline. The petitioner asks that the local authorities be called upon to regularise the tourist operations on the island and to put an end to this situation since the area forms part of the Natura 2000 network.

2. Admissibility

Declared admissible on 22 November 2018. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 15 April 2019

The Habitats Directive¹ requires Member States to ensure the protection of Natura 2000 sites and to establish and implement the necessary conservation measures to achieve the conservation objectives of these sites. It is for the competent Spanish authorities to ensure that activities in or around Natura 2000 sites are compatible with these provisions.

Member States have some discretion as regards the measures to be established, provided that they correspond to the ecological requirements of the natural habitat types in Annex I and the

¹ 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.

species in Annex II present on the sites, thus contributing to reaching favourable conservation status of these protected habitats and species at national or biogeographical level.

The Site of Community Importance (SCI) “Serra Gelada di Marina Baixa” has not yet been designated as a Special Area of Conservation (SAC) under Article 4(4) of the Habitats Directive nor have the necessary conservation measures (Article 6(1) of Habitat Directive) been established so far. Nevertheless, there is a management plan for the natural resources of Serra Gelada and the coast area², approved in 2004 (under regional legislation). The authorities publish a report annually outlining the activities developed in the Park “Serra Gelada y su zona litoral” under the management plan. These reports show how the authorities are addressing the different conservation problems in the Isla de Benidorm and the measures applied³.

In accordance with Article 6(3) of the Habitats Directive, any plan or project likely to have a significant negative effect on Natura 2000 sites has to undergo an appropriate assessment having regard to the site’s conservation objectives. In the light of the conclusions of the assessment, the competent authorities shall agree to this plan or project only after having ascertained that it will not adversely affect the integrity of the sites.

According to the available information⁴, the Spanish authorities have rejected the restaurant’s authorisation and the facilities are to be closed and demolished.

Conclusion

The Commission continues to pursue the gaps identified in the implementation of Article 4(4) and 6(1) of the Habitats Directive in Spain, in the framework of an ongoing horizontal infringement procedure (ref. 2015/2003). This infringement case covers, amongst others, the “Serra Gelada di Marina Baixa” site.

As regards the restaurant’s activity, since the authorities are currently pursuing the matter, there is no for the Commission to intervene.

² DECRETO 58/2005, de 11 de marzo, del Consell de la Generalitat, por el que se aprueba el Plan de Ordenación de los Recursos Naturales de la Serra Gelada y su zona litoral (DOGV núm. 4967 de 16.03.2005).

³ www.parquesnaturales.gva.es/va/web/pn-serra-gelada/memorias-de-gestion

⁴ Document “RP-Resolucion-ISLOTE BENIDORM ayto – report.pdf” attached