



16.11.2011

NOTICE TO MEMBERS

Subject: Petition 1110/2008 by Mrs. Mary O'Leary (Irish), on behalf of Chase, on the alleged failure of the Irish authorities to enforce the EU air emissions standards for dioxins and lead

Petition 1296/2008 by Ms. Josephine Mary Mackey (Irish), on the health risk posed by the presence of a hazardous waste landfill in the vicinity of a residential area (Cork, Ireland)

Petition 1037/2010 by Amy Cullen (British), on behalf of Cork Harbour Health Group, on the Haulbowline toxic landfill and its impact on the health of the residents of Cobh and Cork Harbour (Ireland)

1. Summary of petition 1110/2008

The petitioner asks the European Parliament to investigate the alleged failure of the Irish authorities to implement European provisions concerning the reduction of the emissions of dioxins (Directive 94/67/EC) and the limit values of lead in the ambient air (Directive 82/884/EEC). According to the petitioner, the Irish authorities would have failed to regulate the emissions from the Irish ISPAT steel smelting/sintering facility at Haulbowline Island (Cork County). The petition argues that the emissions would be in excess of the limits and would pose a serious health risk to the local population.

Summary of petition 1296/2008

The petitioner strongly criticizes the functioning of the Haulbowline hazardous waste landfill in the vicinity of a residential area, arguing that it poses a severe risk for the public health. The petitioner maintains that she has only recently found out about this landfill from a press

article and believes that the EC environmental legislation has been breached. The petitioner, whose son was born with a number of congenital cardiac defects, urges the European Parliament to intervene with the Irish authorities and have the landfill stop its activity as rapidly as possible.

Summary of petition 1037/2010

The petitioner requests the European Parliament to intervene with the Irish authorities in order to have them order an independent baseline health study to assess the health risks resulting from the presence of a toxic landfill on Haulbowline Island. The petitioner explains that the landfill contains Chromium VI which is known to be highly carcinogenic. She argues that the residents of the surrounding areas of Cobh and Cork Harbour are exposed to severe health risks and maintains that the cancer rate in Cobh - an island opposite to Haulbowline - is 37% over the national rate. The petitioner deplors the way in which the landfill is managed and considers that the relevant Irish authorities are breaching the European legislation concerning the storage of toxic waste.

2. Admissibility

Petition 1110/2008: Declared admissible on 26 January 2009.

Petition 1296/2008: Declared admissible on 19 February 2009

Petition 1037/2010. Declared admissible on 14 December 2010

Information requested from Commission under Rule 202(6).

3. Commission reply, received on 2 September 2010.

Both petitions refer to the discovery in summer 2008 of a waste tip holding hazardous waste sludge within the wider premises of the former Irish Steel works at Haulbowline at Cobh in Cork Harbour. The company operating the site went into liquidation in 2001. The petitioner contends that the site includes a toxic waste landfill which poses a threat to the health of inhabitants in the vicinity of the site.

Directive 75/442/EEC on waste, now codified as Directive 2006/12/EC¹, provides that waste disposal sites should have a waste permit (Article 9), that holders of waste are obliged to have waste disposed of at a lawful undertaking (Article 8) and that waste should be disposed of without harm to the environment (Article 4). In Case C-494/01, *Commission v Ireland*, Ireland was condemned for systematic failure to ensure compliance with these requirements.

Directive 91/689/EEC² on hazardous waste qualifies Directive 2006/12/EC by requiring a number of additional safeguards in relation to hazardous waste. Article 2 contains a duty to record and identify hazardous waste sites and not to mix hazardous wastes without other types of waste. Article 4 requires that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment. Article 6 requires waste management plans to address hazardous waste disposal.

The issues raised by these petitions have also been the subject of a complaint to the

¹ OJ L 114, 27.4.2006, p. 9-21

² OJ L 377, 31.12.1991, p. 20-27

Commission. The Commission sought information and clarification under the EU Pilot process, requesting information as to the controls applied to the site and compliance with the obligations under EU environmental law: specifically, the steps taken to ensure that the waste in the landfill is covered by a valid waste permit in compliance with the requirements of Directive 2006/12/EC and Directive 91/689/EEC and, for the purposes of Article 4 of Directive 2006/12/EC, the steps being taken to ensure that the waste present in the landfill does not present a threat to human health or the environment.

In response, the Irish authorities confirmed that since 2004 the site has been under state control with Ireland's Department of the Environment, Heritage and Local Government responsible for the management of the wider site of the former steel works, arranging for works for the decontamination of the site. The authorities stated that in summer 2008, during the course of a clean-up, a sub-surface hazardous sludge pit was discovered. The department engaged consultants to carry out an environmental assessment of the waste dump, now referred to as the East Tip. This assessment concluded that, while there was significant contamination, the East Tip did not pose any immediate threat to human health or the environment in the area. As part of the assessment, monitoring of the air quality at Cobh was also undertaken, concluding that there was no occupational risk to human health from airborne substances.

In relation to the need for a valid waste permit under Directive 2006/12/EC, the Irish authorities indicated that the relevant licence under Irish law was invalidated by the Irish High Court in 2004 and that there is currently no permit in place covering the storage of waste on the site. The Irish authorities have set up a working group to consider the future use of the site and indicated that the relevant permit arrangements are dependent on the outcome of this.

Conclusions

The information provided by the Irish authorities points to a regulatory gap, in as much as the waste in question is not currently the subject of a valid waste permit pursuant to Directive 2006/12/EC. The Commission is considering the appropriate steps to take.

4. Further Commission reply, (REV) received on 29 March 2011 for petitions 1110/2008, 1296/2008 and 1037/2010

From December 2010, Directive 2006/12/EC was replaced by Directive 2008/98/EC¹. However, the later directive maintains the key obligations of the earlier one.

The Commission considers that the absence of a waste permit at Haulbowline comes within the scope of the European Court of Justice's ruling in Case C-494/01.

On 30 September 2010, the Commission decided to send Ireland a letter of formal notice under Article 260 of the Treaty on the basis that Ireland was still not fully compliant with the judgment. The Commission wishes to refer the Committee to press release IP/10/1257: (<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/1257&format=HTML>)

¹ OJ L312, 22/11/2008

The Commission has again asked Ireland to comply with the Court's ruling and has, inter alia, drawn attention to the absence of a waste permit at Haulbowline.

The Commission has received the response of the Irish authorities to its additional letter of formal notice and is now considering its position.

Conclusion

The Commission has addressed the absence of a waste permit at Haulbowline within the framework of its wider follow-up of the ECJ ruling in Case C-494/01, *Commission v Ireland*. In the absence of the necessary actions being taken, the Commission will take the appropriate action.

5. Further Commission reply, received on 16 November 2011 (REV II) for Petitions 1110/2008, 1296/2008 and 1037/2010

The Commission's observations

When these petitions were discussed in April 2011, the Commission undertook to ensure that concrete progress would be made. The Commission is now pleased to report on new developments in relation to the future of the hazardous waste site on Haulbowline Island, Co. Cork.

A Government decision on the future of the site was taken on 14 June 2011. The site will come within the ownership of the Irish Defence forces. Specifically, the Irish Naval Service will take possession of it. On 27 June 2011, the Minister for Agriculture, Food and the Marine, Simon Coveney TD, announced the establishment of a steering group to oversee an application for a licence to the Environment Protection Agency (EPA) to address hazardous waste on Haulbowline Island and oversee the required remedial action. The steering group is made up of representatives of the Departments of the Environment, Community and Local Government, Jobs, Enterprise and Innovation, Defence and Public Expenditure and Reform. It will be chaired by Minister Coveney. The Office of Public Works (OPW) and Cork County Council will also have a pivotal role on the steering group.

Although Irish Ispat, the original owner of the site had obtained an Integrated Pollution Control (IPC) Licence from the EPA, the company went into liquidation before the conditions in the licence could be met. A July 2004 judgement of the High Court found, as a matter of fact, that the IPC licence was granted after the company had ceased production of steel and that the conditions of the licence could not be applied retrospectively. The Irish authorities have informed us that, in view of this lacuna, a determination as to the future use of the site had to be made and then a new licence obtained, before any site remediation can take place.

The first task of the steering group is to oversee the preparation of an application for a licence to the EPA. The Irish authorities have informed the Commission that a series of meetings already took place during July and August 2011. The Commission understands that the application will be made jointly by Cork County Council and the Minister for Agriculture. Cork County Council has also been in close contact with the EPA.

Following these extensive preparations, current predictions are that regularisation of the site will be pursued by way of a licence application by September 2012. A proposed licence decision by the EPA would be expected in the first part of 2013 with actual remediation taking place during 2013.

The Irish authorities are committed to full transparency. Cork County Council has created a dedicated link on its website: www.corkcoco.ie/haubowline. The Irish authorities have informed the Commission that this link will be kept up to date at each stage of the process (see "Latest News" section of the website) and provide detailed timelines for the application process. The Irish authorities would be pleased to make a presentation of their plans for Haulbowline to the Committee on Petitions at a future meeting.