



16.4.2021

NOTICE TO MEMBERS

Subject: Petition No 0235/2017 by H. W. F. (German) on the Czech proposal to build a barrage dam on the Elbe river near Decin, Czech Republic

1. Summary of petition

The petitioner asks the European Parliament to take a stance on the planned construction of a barrage on the Elbe river by the Czech Republic near the border with Germany, allegedly with the use of EU funds, in a manner which the petitioner claims is contrary to EU environmental impact assessment norms and the Water Framework Directive. The petitioner argues that when the Czech authorities first began planning the project, the consultations they sought from the German authorities, both at federal and state level, clearly established that the project would have adverse consequences on the environment and would breach EU law under the Water Framework Directive. The petitioner submits that this finding was also backed up in the opinions submitted by environmental NGOs. In view of the importance of the river basin ecosystem, the petitioner is now urging the Parliament to pronounce itself on a number of matters linked to the proposal, including potential breach of EU law, extended delays of the environmental impact procedure, and EU financing of the project. The petitioner also emphasizes that the project would, in his view, lead to a violation of Article 37 of the European Charter on Fundamental Rights (a high level of environmental protection).

2. Admissibility

Declared admissible on 11 July 2017. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 22 September 2017

The petitioner is mentioning delays in the environmental impact assessment procedure (EIA) for the project of Decin lock. The EIA was initiated in 2005 and, since 19 September 2016, has been suspended until the developer provides additional information.

The EU legislation (Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment) does not regulate the length of the EIA procedure. It only requires in its Article 8a(6) that the EIA decision must be still up to date when taking a decision to grant development consent, but no EIA decision has been adopted yet for the project in question.

Concerning the EU Water legislation, the Commission recalls the core principles of the Water Framework Directive (WFD), which are specified in Article 4(1) – the “environmental objectives” for natural surface and groundwater bodies and artificial and heavily modified water bodies (HMWBs) providing for a long-term sustainable water management on the basis of a high level of protection of the aquatic environment and the necessary measures to prevent deterioration of the status of all water bodies - the so-called "non-deterioration principle". Member States are required – unless exemption according to Art. 4.7 is granted, which requires specific detailed investigations and justification – to refuse authorisation for an individual project where it may cause a deterioration of a water body or where it jeopardises the attainment of good status or potential. The process of determining the potential impacts of this project on the relevant water body(ies) is therefore necessary to ensure compliance with the obligations of the WFD.

In addition, as the project is located inside a Natura 2000 site, requirements of the Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitats Directive) will need to be respected (specifically Art. 6.3). Moreover, additional habitats should still be designated on the site. This is covered by an infringement procedure for completion of the NATURA 2000 which the Commission has launched against the Czech Republic in 2016.

In relation to the funding of the project, the Elbe -Vltava Waterway belongs to the core TEN-T network according to the Regulation of the European Parliament and of the Council of 11 December 2013 (EU) No 1315/2013 on Union guidelines for the development of the trans-European transport network (TEN-T). However, there has been no decision to finance the project of Decin lock from the Connecting Europe Facility (CEF).

Conclusion

As no decision on the authorisation of the project has been taken so far by the competent national authorities, it is not possible to identify any breach of the EU law. The Commission cannot intervene at this stage. No financing from Connecting Europe Facility has been granted.

4. Further reply from the Commission, received on 16 April 2021

With his letter of 9 June 2020, the petitioner provided new documents and stated that if the project to build an Elbe barrage at Děčín has been abandoned, his petition can be regarded as finished.

The documents sent by the petitioner mention a scientific study which indicates that it is not possible to compensate for the habitats in the Elbe valley which would be lost in case of the construction of the dam, meaning that the project could not be realised in compliance with Article

6 (3-4) of the Habitats Directive¹. It also follows from the documents that the Environmental Impact Assessment (EIA) procedure for the Děčín lock was terminated in 2019 because the updated documentation has not been submitted.

However, the Czech government decided on 5 October 2020 that the preparation of the Oder part of the project of the Danube-Oder-Elbe corridor, of which the Děčín lock is a part, should start, and that the EIA assessment should be carried out for the entire Danube-Oder-Elbe corridor project, including the Elbe part. The new EIA procedure has not been initiated yet.

At the informal video conference of the Transport Ministers on 8 December 2020 the transport ministers of the Visegrád Group presented a joint statement on the upcoming revision of the Trans-European Transport Network (TEN-T), proposing to include the improvement of Danube, Oder and Elbe (including the Slovak river Váh) inland waterways.

Conclusion

The Commission notes that the preparation of the project of the Danube-Oder-Elbe corridor is ongoing and will assess, once available, any evidence as to how this project will respect EU nature and water legislation. As no decision concerning the authorisation of the project has been taken so far by the competent national authorities, it is not possible to identify any breach of EU law at this stage. The Commission also notes that no financing from the Connecting Europe Facility has been granted for this project.

¹ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.