3.3.2011

NOTICE TO MEMBERS

Subject:  Petition 1322/2007 by Yolanda Díaz Pérez (Spanish), on behalf of Izquierda Unida de Galicia [United Galician Left], Jesús Ignácio Caselas Pérez, on behalf of the Federación Roi Xordo de AAVV de la zona urbana de Ferrol, bearing 4 other signatures and Bernardo Bastida Sixto, on behalf of Cofradía de Pescadores de Ferrol [Ferrol Fishermen’s Brotherhood] on the opening of a regasification plant in Mugardos, La Coruña

1. Summary of the petition

The petitioners criticise the opening of the ‘Reganosa’ regasification plant on the estuary of the Ferrol river in Mugardos, La Coruña, which they regard as a major risk to humans and the environment. The petitioners are convinced that there has been a violation of legislation including Council Directives 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances, and 97/11/EC of 3 March 1997 amending Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment. For example, the plant is far too close to residential areas (only 90 m). Furthermore, it is in the immediate vicinity of a petrochemical complex. Since the plant is not directly beside the sea, large tankers would have to pass through a narrow canal with a marine subsoil which has been registered as an area of Community interest. The petitioners of the Cofradía de Pescadores fear for their jobs if, as a result of the gas plant, the river ceases to be able to support life. They are concerned about the intensive use of sea water in the transformation of the liquid back to gas, and call for a ban on the use of sea water should the plant not be closed.
2. Admissibility


3. Commission reply, received on 25 September 2009

The petition

The petitioners explain that the regasification plant in Mugardos may represent serious risks in case of accident and wonder whether Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances was respected in this case. The petition also contains a number of considerations about issues that fall outside the scope of EC Law and which should eventually be brought forward before the competent Spanish administrative or judiciary bodies. The Commission will not comment on those, since they fall outside its competences.

The Commission's comments on the petition

The Commission is well aware of the facts raised by this petition, since the regasification plant of Mugardos in La Coruña, Galicia, Spain has been the subject of many EP questions (e.g. WQ E-5667/07 and E-5668/07) and a full Commission investigation (complaint 2001/2141, regrouping a number of complaints) closed in December 2006.

Nevertheless, the Commission has double checked compliance of the plant with Article 8 of Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances. This article states:

‘Domino effect’

1. Member States shall ensure that the competent authority, using the information received from the operators in compliance with Articles 6 and 9, identifies establishments or groups of establishments where the likelihood and the possibility or consequences of a major accident may be increased because of the location and the proximity of such establishments, and their inventories of dangerous substances.

2. Member States must ensure that in the case of the establishments thus identified:

a) suitable information is exchanged in an appropriate manner to enable these establishments to take account of the nature and extent of the overall hazard of a major accident in their major accident prevention policies, safety management systems, safety reports and internal emergency plans;

b) provision is made for cooperation in informing the public and in supplying information to the competent authority for the preparation of external emergency plans.

The information provided by the Spanish authorities confirms that the requirements of Article 8 are met: adequate information has been exchanged between the plants concerned (Reganosa, Igemasa, Forestal del Atlántico S.A), and an External Emergency Plan has been

drawn up and is available on the internet at:


and page 102 of the External Emergency Plan shows the extent of the likely ‘domino effects’ that could be foreseen in case of accidents in the plant.

Conclusions

The Commission understands that this kind of plant might be unpopular to a certain sector of the neighbouring population, but considers that it does not make sense further to pursue this issue, which was already the subject of a thorough and exhaustive assessment by its services to check compliance with applicable EC environmental law, in the context of their investigation of complaint 2001/2141 closed by the Commission in December 2006.

4. Commission reply, received on 2 September 2010

The Commission has fully examined the case, as mentioned in its last communication on this petition. No infringement of EU environmental law could be identified and the complainant was duly informed. The Commission also advised the complainant to use all available means of redress under national law.

The additional information received from the petitioner did not contain any new information sufficient to re-examine the case. Therefore, the Commission refers to the conclusions of its previous communication and reiterates that, in its view, there are no grounds to pursue this issue further.

5. (REV II) Commission reply, received on 3 March 2011

The petitioner’s last letter does not change the conclusions reached by the Commission in its last communication. The information forwarded by the petitioner does not relate in any way to the subject matter of the petition which concerned the alleged failure to comply with EU environmental directives. The information relates to an alleged infringement of the rules on State aid, and in particular Article 107(1) TFEU, which a neighbourhood association has submitted to the Commission, and which is the subject of State aid case CP 309/2007 - REGANOSA. These allegations are not therefore related to the petition and are governed by different procedural rules as set out in Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (now Article 108 TFEU).1

After investigating these allegations, the Commission informed the complainant on three occasions on 18 August 2008, 17 March 2010 and 9 July 2010 that no illegal State aid could be established from the information available. The last letter sent by the petitioner on 2 August 2010 is simply the last letter from the complainant in this procedure. Since then, the Commission has informed the complainant that the allegations and facts set out in this letter

still do not show or provide proof of any illegal aid, unless the complainant is able to provide further allegations or new facts.

To conclude, as these are completely different allegations which are not related to the petition, and which also come under different procedural and substantive rules which are being actively followed up by the Commission, the petitioner’s letter does not contain new and relevant information which would justify further investigation of this case.