

Environmental Impact: Commission acts against Ireland, Italy, Portugal and France for non-compliance with EU law

The European Commission has decided to take legal action against several Member States for non-compliance with an EU law which requires them to assess the effects of certain public and private projects on the environment. Italy has been referred to the European Court of Justice for failing to assess or adequately screen a road project in Teramo, Abruzzo. Portugal is to be referred to the European Court of Justice for failing to require that an environmental impact assessment be carried out before the construction of an urban development project in Cascais. Ireland has received a Reasoned Opinion (second written warning) for failing to carry out a prior environmental impact assessment on a peat extraction project in an environmentally sensitive area (Moud's Bog, County Kildare). Finally, France has received a Reasoned Opinion because French legislation has failed to implement fully the EU law. Commenting on the decisions, Margot Wallström, the Environment Commissioner, said: "I regret that the Commission has to remind Member States to safeguard the rights of the public to receive environmental information and to be consulted on the possible environmental impacts of projects. These rights are a tangible expression of a European Union that is close to the citizen "

Italy

The decision to take Italy to the Court concerns its failure to consider properly the need for an environmental impact assessment of a road building project at Teramo in Abruzzo. The road will affect an important natural habitat, the Fiume Tordino medio corso, which Italy has designated as a site to be protected under the rules in the EU Habitats Directive¹. A Commission complaint investigation showed that no proper screening was carried out to determine whether the road project required an environmental impact assessment.

Portugal

The Commission has decided to take Portugal to Court because Portugal has failed to require that an environmental impact assessment be carried out before granting permission for the construction of an urban development project in Cascais. The project will affect a site which Portugal has designated as a site containing particular species of plants which should be protected under the Habitats Directive.

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

Ireland

The decision to send a Reasoned Opinion to Ireland concerns a peat extraction project. An environmental impact assessment was not carried out with regard to a peat extraction project in an environmentally sensitive area (Mouds Bog, County Kildare). This case is linked to another case, where the Commission is taking legal action against Ireland for failing to propose enough such peatlands for conservation in the Natura 2000 network. In a third linked case, the Commission has been pursuing legal action against Ireland to press for a better general system of assessing environmentally damaging peat extraction projects.

France

The Commission has sent a Reasoned Opinion to France because France has failed to implement correctly the EU Environmental Impact Assessment Directive. The Commission considers that French legislation used to implement the law fails to adequately ensure that small projects that are cumulatively significant even if not so individually are first screened to determine whether an impact assessment is required. This decision follows a Commission investigation of complaints relating to intensive poultry breeding installations in the Bay of Mont St. Michel area, but the case refers to general shortcomings in the French legislation.

The Environmental Impact Assessment Directive

This Directive² is one of the Community's principal pieces of environmental legislation. It requires Member States to carry out an environmental impact assessment (EIA) for certain public and private projects before they are authorised where they are likely to have significant effects on the environment. For some projects (such as motorway construction) listed in an Annex I to the Directive, such assessments are obligatory. For others (such as urban development projects or peat extraction projects) listed in Annex II, Member States must operate a screening system to determine which projects require assessment. They can apply thresholds or criteria, carry out case-by-case examination or do a combination of these.

The aim of an EIA is to identify and describe the environmental impacts of projects and to assess them with a view to their possible prevention or mitigation. During the EIA procedure the public can contribute its knowledge and express its environmental concerns with regard to the project. The results of the consultation have to be taken into account in the authorisation procedure.

The necessary national legislation should have been in place by July 1988. An amendment to the Directive was adopted in 1997. While retaining the basic framework of the original Directive, the amendment strengthens many of the details. Member States were required to adopt the necessary national laws to take account of this amendment by March 1999.

² Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, amended by Directive 97/11/EC

Legal Process

As guardian of the EC Treaty, the Commission must make sure that the legal requirements of the Treaty and legislation adopted under the Treaty are respected by Member States. The procedure being followed in this case relates to Article 226 of the Treaty, which gives the Commission powers to take legal action against a Member State that is not respecting its obligations.

If the Commission considers that there may be an infringement of Community law that warrants the opening of an infringement procedure, it addresses a "Letter of Formal Notice" to the Member State concerned, requesting it to submit its observations by a specified date, usually two months.

In the light of the reply or absence of a reply from the Member State concerned, the Commission may decide to address a "Reasoned Opinion" (or second written warning) to the Member State. This clearly and definitively explains the reasons why it considers there to have been an infringement of Community law and calls upon the Member State to comply within a specified period, normally two months.

If the Member State fails to comply with the Reasoned Opinion, the Commission may decide to bring the case before the European Court of Justice.

For current statistics on infringements in general see:

http://europa.eu.int/comm/secretariat_general/sgb/droit_com/index_en.htm#infractions