



18.11.2024

## NOTICE TO MEMBERS

**Subject: Petition No 0838/2023 by Miguel Ángel Navarro Fernández (Spanish) on violation of the Natura 2000 network**

### 1. Summary of petition

The petitioner complains that, in Arganda del Rey (Community of Madrid), urban planning instruments are approved without following the established procedure and that this has a negative impact on the requisite protection, restoration to the natural state and reinstatement of the Natura 2000 network, thus violating the Habitats Directive (92/43/EEC) and Directive 2009/147/EC on the conservation of wild birds, given that migratory species in danger of extinction are living in the area concerned. The petitioner further explains that certain officials in that locality acting as an organised group and in concert with private agents knowingly grant illegal authorisations to reclassify land, which is the subject of special protection under EU law. These officials and agents complicit with certain private companies in the real estate sector are engaged in extorting the owners of rural land in Natura 2000 areas in order to buy it and then proceed to approve urbanisation plans, build, and quickly sell with substantial profits. He also points out that he has already lodged administrative and judicial complaints regarding these manifest acts and that he and members of his family have as a result been harassed and persecuted, in breach of the protection afforded to him under Directive 1937/2019. The petitioner reports an administrative expropriation procedure and judicial proceedings which are currently stalled in the context of which he considers there to have been prevarication

### 2. Admissibility

Declared admissible on 29 November 2023. Information requested from Commission under Rule 233(5).

### 3. Commission reply, received on 18 November 2024

The petitioner addresses the approval of urban planning tools without conducting the established procedures in Arganda del Rey (Spain), leading to misuse of protected land, illegal transformation and destruction of protected habitats and species in Natura 2000 sites, contravening both the Habitats<sup>1</sup> and the Birds<sup>2</sup> Directive. The petitioner also raises issues of corruption and misappropriation of EU funds as well as inadequate legal support and ineffective judicial processes.

### The Commission's observations

The area referred by the Petitioner is located within the Natura 2000 sites 'Vegas, cuestras y páramos del sureste de Madrid'<sup>3</sup> is designated as Special Area of Conservation (SAC) under the Habitats Directive, and 'Cortados y cantiles de los ríos Jarama y Manzanares' classified as Special Protection Area (SPA) under the Birds Directive.

The Habitats Directive does not prevent in principle urban developments. However, a plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned<sup>4</sup>.

In addition, under Article 6(2) of the Habitats Directive, in Natura 2000 sites, Member States must take appropriate steps to avoid the deterioration of natural habitats, the habitats of the species as well as significant disturbance of the species for which the site is designated.

Moreover, the species protection regime under the Habitats and Birds Directive must be respected, both inside and outside Natura 2000 sites.

Prior to granting consent for urban development projects<sup>5</sup>, Member States must determine, pursuant to the Environmental Impact Assessment (EIA) Directive<sup>6</sup>, if an assessment is necessary because of their likely significant effects on the environment. Where appropriate, Member States must provide for coordinated and/or joint procedures fulfilling the requirements of both the EIA and the Habitats Directives.

Without prejudice to the Commission's role as guardian of the Treaties, the responsibility for applying these provisions correctly lies with the competent authorities of the Member States. In order to assist them in this task, the Commission has issued guidance documents<sup>7,8</sup>.

---

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, p. 7–50

2 Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (Codified version) OJ L 20, 26.1.2010, p. 7–25

3 Site code ES3110006

4 Without prejudice of Article 6(4)

5 Urban development projects are referred to in point 10(b) of Annex II of the Environmental Impact Assessment Directive: 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment Text with EEA relevance (OJ L 26, 28.1.2012, p. 1–21), as amended by Directive 2014/52/EU (OJ L 124, 25.4.2014, p. 1–18.

6 Directive: 2011/92/EU of European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment Text with EEA relevance (OJ L 26, 28.1.2012, p. 1–21), as amended by Directive 2014/52/EU (OJ L 124, 25.4.2014, p. 1–18.

7 <https://op.europa.eu/en/publication-detail/-/publication/2c9f4a14-8f97-43ac-a274-4946c142b541>

8 <https://op.europa.eu/en/publication-detail/-/publication/99a99e59-3789-11ec-8daf-01aa75ed71a1/language-en>

Pursuant to the principle of effective judicial protection set out in the Treaty of the Union, Member States must grant the public access to rapid and effective redress mechanisms in the fields covered by EU law. In particular, the EIA Directive<sup>9</sup> provides for specific review procedures before a court of law or another independent and impartial body to challenge the substantive or procedural legality of decisions, acts or omissions subject to the public participation provisions of the Directive.

This is also in line with the Commission's strategic approach to its enforcement actions, as set out in the Communication C/2016/86006<sup>10</sup>. The redress mechanisms provided at national level are the most appropriate means to deal satisfactorily with individual cases of possible incorrect application of EU law.

We encourage the petitioner to continue his efforts to address the alleged infringements through the competent national authorities and courts, as they are best placed to adequately address this issue.

### Conclusion

In view of the foregoing, the Commission considers that the redress mechanisms available under national law are the most adequate means to deal with the alleged individual instance of incorrect application not raising issues of wider principle.

Regarding the allegations of misuse of the EU funds, based on the information shared with the Commission, we could not identify any breach of the EU funds legislation. The petitioner does not provide details of the operations involved in such potential misuse. Therefore, the Commission cannot assess further the possible breach of EU funds legislation by the City Council of Arganda del Rey. If the petitioner suspects fraud, corruption, or any other illegal activity affecting the financial interests of the European Union, he should report his concerns to the European Anti-Fraud Office (OLAF) or to the European Public Prosecutor's Office (EPPO).

---

<sup>9</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (codification) Text with EEA relevance. OJ L 26, 28.1.2012, p. 1–21

<sup>10</sup> Communication from the Commission — EU law: Better results through better application.

C/2016/8600. OJ C 18, 19.1.2017, p. 10–20; and in the Communication from the Commission – Enforcing EU law for a Europe that delivers.