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<Commission>{PETI}Committee on Petitions</Commission>

<Date>{17/05/2023}17.5.2023</Date>

<TitreType>NOTICE TO MEMBERS</TitreType>

Subject: <TITRE>Petition No 1190/2022 by Esther Dufaure (French) on land-based intensive salmon farming mega-farm project in the Gironde estuary</TITRE>

1. Summary of petition

The petitioner warns about the establishment of a project carried out by a big firm from Singapore to set up a mega farm for intensive farming of salmon for the French and European markets on the Gironde Estuary in France. The project, in her opinion, would not comply with EU law due to several elements. It would be Europe’s largest land-based factory for intensive livestock farming located on an area vulnerable to flood/storm risks and marine erosion and rising waters as part of global warming. Moreover, she thinks that there would be potentially toxic releases with direct and indirect effects in exceptional environments, habitats, biodiversity reservoirs and ecological and protected corridors. She also states that this project might cause a huge overconsumption of water and a risk of salinization, a significant overconsumption of energy, deterioration of animal welfare conditions. Last but not last it would be funded by non-European funds with questionable ethics. For the petitioner, this project would fail to comply with the Art 191 of TFEU and would be a breach of Directive 2007/60/EC.

2. Admissibility

Declared admissible on 10 March 2023. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 17 May 2023

‘The Water Framework Directive[[1]](#footnote-1) (WFD) aims at protecting from further deterioration and enhancing the status of aquatic ecosystems as well as of terrestrial ecosystems and wetlands directly depending on them.

In accordance with the jurisprudence of the Court of Justice[[2]](#footnote-2) , Member States are required to refuse authorisation for a project where it is such as to result in deterioration of the status of the body of water concerned or to jeopardise the attainment of good surface water status, unless the view is taken that the project is covered by a derogation under Article 4(7) of the directive. It thus follows from this that Article 4(7) WFD requires prior authorisation for any new project potentially affecting one or more water bodies, in the context of which a project can only be allowed subject to demonstration of compliance with strict criteria, including a demonstration of overriding public interest or of the benefits of the project to human health, to the maintenance of human safety or to sustainable development outweighing the benefits to the environment and to society of reaching good environmental status, demonstration of the fact that no better environmental measures exist that are not disproportionately costly and maximum mitigation of negative impacts. In addition, the reasons for the project must be specifically set out and explained in the river basin management plans (RBMPs) which Member States have to adopt and subsequently report to the Commission every six years. These are the criteria set out in Article 4(7) WFD. Prior authorisation also applies to abstractions.

Further, should the project give rise to deterioration of the chemical status as a result of direct discharges in a water body, it should be prohibited[[3]](#footnote-3). This is because Article 4(7) WFD only allows for deterioration of status if it is the result of new modifications to physical characteristics of surface water bodies or new alterations to the level of groundwater, or to bring the ecological status of a water body below ‘good’ as a result of sustainable human development activities. Direct discharges of pollutants deteriorating the chemical status are therefore not justifiable under this provision.

According to the information in possession of the Commission, the estuary of the Gironde River (transitional water body FRFT09[[4]](#footnote-4)) is in poor ecological status and bad chemical status. Therefore, any further deterioration of any of the quality elements causing the water body to be in poor or bad status, would be considered as a deterioration and hence to be justified under Article 4(7) WFD.

In relation to the claims regarding flood risk management, it should be noted that the Floods Directive[[5]](#footnote-5) (FD) establishes a framework for measures to reduce the risks of flooding. The objectives of such framework are determined at national level by the Member States themselves, based on local and regional circumstances. The same applies to the selection and prioritisation of measures aiming to reduce the risk from flooding. The objectives and measures are to be included in the flood risk management plans (FRMPs) which have to be adopted and reported to the Commission every six years. In this respect, the Commission notes that the right bank of the Gironde river’s estuary has been characterised as an area of potential significant flood risk (APSFR) under the FD. The left bank is not classified as an APSFR, but it is however covered by a local plan to prevent flood risk (*Plan de Prévention des Risques d’Inondation-PPRI*)[[6]](#footnote-6), which identifies Verdon-sur-mer as being at risk of flooding. Such information must be taken into account by the authorities in the process of authorising projects in the area covered by the PPRI.

The Commission monitors the progress in the implementation of the WFD and the FD in the framework of its assessment of the RBMPs and FRMPs. The Commission will assess the third RBMPs and second FRMPs (covering the years 2021- 2027), in particular as regards the reported status of water bodies, the justification of possible exemptions and the measures planned to bring all water bodies to good status by the end of 2027.

Article 6(3) of the Habitats Directive[[7]](#footnote-7) requires that any plan or project not directly connected with or necessary to the management of a Natura 2000 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. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of Article 6, paragraph 4, 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 and, if appropriate, after having obtained the opinion of the general public. This also applies to the salmon farm project and the Natura 2000 sites FR7200677 Estuaire de la Gironde; and FR7210065 Marais du Nord Médoc.

Finally, it is important in this context to take note of the recent Commission Communication on strategic guidelines for a more sustainable and competitive EU aquaculture for the period 2021-2030[[8]](#footnote-8), which have a strong “environmental performance” component in their vision of EU aquaculture. France has adopted in 2021 a Multi-annual National Strategic Plan for Aquaculture taking into consideration this vision, which also includes actions on improving the environmental performance of the aquaculture sector.

**Conclusion**

According to the information in possession of the Commission, the project has not yet materialised. In the absence of further information regarding the authorisation procedure including the appropriate assessment on the Natura 2000 sites, the Commission is not in a position to identify a breach of EU law.

The information currently provided in the petition does not allow the Commission to conclude that the project will result in deterioration of status of one or more water bodies, or that it will significantly affect Natura 2000 sites, nor to establish that the authorities would not have implemented or will not implement a prior authorisation procedure in accordance with the criteria set out in EU legislation.

The Commission recalls that the primary responsibility for correctly implementing the WFD and Habitats Directive lies with the French competent authority. In line with the policy approach announced in the Communication “EU law: Better results through better application[[9]](#footnote-9)”, and more recently in the Commission Communication “*Enforcing EU law for a Europe that delivers[[10]](#footnote-10)****”,*** the Commission prioritises its enforcement efforts as Guardian of the Treaty on those structural cases that reveal a systematic breach of EU law in a Member State. However, should evidence point to a systemic breach of EU law, the Commission will consider further action, as appropriate.’

1. Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy - OJ L 327, 22.12.2000, p. 1–73. [↑](#footnote-ref-1)
2. [Case C-461/13](https://curia.europa.eu/juris/document/document.jsf?docid=165446&doclang=EN) [↑](#footnote-ref-2)
3. In case of groundwater bodies, there are some exemptions listed in Art 11(3)(j) [↑](#footnote-ref-3)
4. [Water Framework Directive - 2nd River Basin Management Plans (europa.eu)](https://maps.eea.europa.eu/wab/WaterFrameworkDirective/) [↑](#footnote-ref-4)
5. Directive 2007/60/EC of the European Parliament and of the Council on the assessment and management of flood risks (OJ L288, 6.11.2007, p.27). [↑](#footnote-ref-5)
6. <https://www.gironde.gouv.fr/Actions-de-l-Etat/Environnement-risques-naturels-et-technologiques/Prevention-des-risques-naturels-et-technologiques/Quels-risques-dans-ma-commune/Etat-des-risques-par-commune-IAL/Le-Verdon-sur-Mer> [↑](#footnote-ref-6)
7. 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 [↑](#footnote-ref-7)
8. COM/2021/236 final [↑](#footnote-ref-8)
9. <https://commission.europa.eu/publications/communication-commission-eu-law-better-results-through-better-application_el> [↑](#footnote-ref-9)
10. [com\_2022\_518\_1\_en.pdf (europa.eu)](https://ec.europa.eu/info/sites/default/files/com_2022_518_1_en.pdf) [↑](#footnote-ref-10)