



13.9.2024

## NOTICE TO MEMBERS

**Subject: Petition No 0429/2024 by Rosa María Hennecke (Spanish), on behalf of ‘Somos Tarifa’ and ‘Los verdes de Europa- Tarifa’ on the environmental consequences of building a hot asphalt plant in Algeciras, Andalusia, Spain**

### 1. Summary of petition

The petitioner relates her petition directly to Petition No 0907/2023 on the impact on the environment of the highway project between Tarifa and Algeciras in Spain, as the asphalt agglomerate is necessary for the works related to it. The petitioner considers that the asphalt plant would be placed too close to areas considered socially disadvantaged (Los Pastores was declared a Zone in Need of Social Transformation). Furthermore, this area lies between two natural parks with a river that rises in Alcornocales and flows into the Strait that have been totally degraded. The petitioner denounces that the restoration of the quarry, where the project is to be located has not been carried out and the owner of the land is the same person who has been awarded the contract for the construction of the southern access to the port of Algeciras, which means that there is a serious conflict of interests. The petitioner underlines that the intention is to consider this project as a substantial modification of the previous one. In fact, it has not had an environmental impact study, similar to Petition No 1342/2011 and it is a new project.

### 2. Admissibility

Declared admissible on 26 June 2024. Information requested from Commission under Rule 233(6).

### 3. Commission reply, received on 13 September 2024

#### Petition

The petitioner is concerned about the alleged impact of the placing of a portable asphalt plant

in the proximity of a socially disadvantaged area and between environmental degraded areas.

### The Commission's observations

The project referred to by the petitioner, located within a quarry currently undergoing restoration<sup>1</sup>, consists of the installation of a temporary mobile hot asphalt agglomeration plant for the manufacture of asphalt concrete and supply to traffic management related works in the Port of Algeciras and to the current works for the widening of N-350 road-South access to the Bay of Algeciras, N-340 and A-7 infrastructures. The plant, which does not require any foundation, will cease its activity, and will be dismantled in approximately 12 months once the works have been carried out.

The production of asphalt concrete (a mix of asphalt and aggregate) is not covered by the project categories in Annex I and II of the Environmental Impact Assessment Directive<sup>2</sup>, since in the mixing process no smelting of mineral substances occurs as the processing temperatures are too low.

Likewise, the provisions of the Industrial Emissions Directive<sup>3</sup> are not applicable considering that the project's activities are not covered by its Annex I.

Even so, in application of the relevant regional legislation in Andalusia<sup>4</sup>, the project has been subject to a unified environmental authorisation procedure that safeguards the information and public participation rights. This procedure provides for redress mechanisms before the relevant bodies. The concerns raised by the petitioner have been examined and responded in such procedure.

This procedure ended with the granting of the unified environmental authorisation to the project developer on 14 March 2024<sup>5</sup>.

### Conclusion

It follows from the above that the Commission cannot identify any breach of the applicable provisions of EU law in this case. Hence, the Commission will not give any follow-up to this petition.

Moreover, given the available review procedures under the relevant regional legislation, the Commission invites the petitioner to resort to such redress mechanisms before the relevant bodies, should the petitioner consider that the provisions of that regional legislation are not being correctly applied, as this would be the most appropriate means to assert her claims in a satisfactory manner.

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<sup>1</sup> Explotación Minera de Recurso de la Sección A) "Los Guijos" (Algeciras).

<sup>2</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 - OJ L 26, 28.1.2012, p. 1–21, as amended by Directive 2014/52/EU of 16 April 2014 - OJ L 124, 25.4.2014, p. 1–18.

<sup>3</sup> Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) - OJ L 334 17.12.2010, p. 17.

<sup>4</sup> The reference installation falls under the scope of the Andalusian Law 7/2007 of 9 July 2003 on Integrated Environmental Quality Management, as amended by Annex III to Law 3/2014 of 1 October.

<sup>5</sup> Resolución de la Delegación Territorial en Cádiz de la Consejería de Sostenibilidad, Medio Ambiente y Economía Azul, por la que se otorga autorización ambiental unificada a S.A. TRABAJOS Y OBRAS (SATO), para el proyecto "Modificación sustancial para la instalación de una planta móvil de aglomerado asfáltico en caliente en la cantera de la sección A) Los Guijos", en el término municipal de Algeciras (Cádiz). (EXPEDIENTE: AAU/CA/026/22).

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