

## **Acknowledgement of receipt and information about pre-closure of multiple complaint CHAP (2017) 1197**

In 2017 the European Commission received a large number of complaints concerning the possible incorrect application of Article 2.2.b) of Directive 2003/35/EC<sup>1</sup>, Articles 3 and 4 of Directive 2001/42/EC<sup>2</sup>, and Article 47 of the Charter of Fundamental Rights of the European Union<sup>3</sup>. The alleged incorrect application of European Union law related to the adoption of regional Law 2/2016 of 27 September amending tourism planning legislation on La Gomera, La Palma and El Hierro.<sup>4</sup>

The European Commission has registered these complaints under the reference CHAP (2017) 1197.

Given the very large number of complaints received on this subject, the Commission, with a view to informing all those concerned while making the most economical use of its administrative resources, is publishing the present notice on the webpage *Europa* in order to acknowledge receipt of the letters and inform the senders about the results of their examination by the Commission services.

Following examination of the allegations made by the complainants, the Commission has not been able to detect any breach of EU legislation.

According to the available information, the approval of Law 2/2016 does not, in itself, entail the adoption of any plan or programme. Instead it regulates in general the nature, object, competence and procedure for the approval of a planning tool<sup>5</sup> and does not endorse *ad hoc* plans or projects. Therefore, the Law 2/2016 does not agree or consent to the immediate implementation of any project.

Consequently, the information and participation rights referred to under Directive 2003/35 would not apply to Law 2/2016. The content and amendments passed to Law 2/2016 would be the result of parliamentary debate. However, the information and participation rights would be safeguarded as regards the future discussion and approval of concrete IPST.

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<sup>1</sup> Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC. OJ L 156, 25.6.2003, p. 17–25

<sup>2</sup> Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment. OJ L 197, 21.7.2001, p. 30–37

<sup>3</sup> Charter of Fundamental Rights of the European Union  
OJ C 326, 26.10.2012, p. 391–407

<sup>4</sup> *Ley 2/2016, de 27 de septiembre, para la modificación de la Ley 6/2002, de 12 de junio, sobre medidas de ordenación territorial de la actividad turística en las islas de El Hierro, La Gomera y La Palma.*  
OJ - BOE núm. 272, de 10 de noviembre de 2016

<sup>5</sup> IPST (acronym for "*instrumentos de planificación singular turística*" - *tourism planning instruments*)

The environmental regime applicable to the IPST would be the Law 21/2013 (transposing Directives 2011/92/EU<sup>6</sup> and 2001/42/EC into the Spanish legal order). As the IPST may have a dual legal nature, when they act as planning instruments aiming at permitting the implementation of island tourism infrastructure they would be plans subject to Directive 2001/42/EC; and when they act as specific tourism projects they would be subject to Directive 2011/92/EU.

For the reasons given above, the Commission services considered not proved the violation of Directives 2003/35/EC and 2001/42/EC. Accordingly, a breach of the Charter of Fundamental Rights of the European Union has not been credited either.

In view of the above, the Commission's services have concluded that this case could be closed.

However, if any of the complainants in this case have any new information that might demonstrate the existence of an infringement of European Union law, they are invited to send this new information to the European Commission within four weeks from the publication of this notice. After this period has passed, the Commission might close the case.

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<sup>6</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