

Speaking notes for Margrete Auken meeting Alfaz del Pi 26 September 2009

Since the European Parliament approved my report for the Petitions Committee earlier this year by a considerable majority, against two other alternative resolutions which were heavily defeated, it can now be said that the official position of the European Parliament in relation to the issues resulting for European citizens arising out of massive urbanisation in Spain is very clear. This position has the backing of all the political groups in the Parliament.

On this occasion, the European Parliament re-iterated its position that:

"the obligation to cede legitimately acquired private property without due process and proper compensation, and the obligation to pay arbitrary costs for unrequested and often unnecessary infrastructure development constitute a violation of an individual's fundamental rights under the ECHR and in the light of the case law of the European Court of Human Rights."

If one looks at the operative paragraphs of the resolution it can therefore be said that:

- Parliament calls on the government of Spain and the regions concerned (basically this means all regions) to thoroughly review and revise all legislation affecting the rights of individual property owners as a result of massive urbanisation;
- Parliament calls for the abolition of urbanisation agents (that are in too many cases responsible for abusing their authority in conjunction with unscrupulous construction companies);
- Parliament calls on all competent regional authorities to suspend and review all new urbanisation plans which do not respect the strict criteria of environmental sustainability and social responsibility and which do not guarantee the respect for the rightful ownership of legitimately acquired property;
- Parliament calls for the halting of all existing developments where criteria laid down by EU law are not being applied or respected;
- Parliament calls for the establishment of functioning judicial and administrative mechanisms involving regional ombudsmen to speed up redress and compensation measures for victims of urbanisation abuse.

The European Parliament made a number of other important points but I do feel that it is important to emphasise the following issue:

- a real concern in relation to the apparent inability of the judicial authorities to provide effective redress for citizens who have suffered from excessive urbanisation, and the lack of confidence of citizens in the judicial system (- Nobody in the Petitions Committee called Spain a "Banana Republic" as certain opposition MEPs stated for their own benefits in front of the press.)

I believe that in relation to the courts in Spain, (and I know there are ongoing problems independently of urbanisation issues) there is growing evidence that judges are beginning to take urban abuse more seriously and this is to be welcomed and encouraged. They are after all obliged to apply EU law where applicable on such issues - notably in relation to environmental concerns and public procurement.

Local authorities who do not implement urbanisation decisions taken by previous administrations because they have reasonable grounds to suspect that they were not established with respect to EU law and citizens' fundamental rights are perfectly justified in Parliament's view to cancel such plans and regional authorities should concur. In case of doubt there remains the provision of Article 234 of the Treaty and lawyers call upon judges to request a preliminary ruling from the European Court of Justice if there is a doubt.

Also in relation to corruption, it is important to recall what was said in full:

" " that absence of clarity, precision and certainty with regard to individual property rights contained in existing legislation, and the lack of any consistent application of environmental law, are the root causes of many problems related to urbanisation and that this, combined with a certain laxity in the judicial process, has not only compounded the problem but also generated an endemic form of corruption of which, once again, the European citizen is the primary victim, but which has also caused the Spanish state to suffer significant loss; " "

Parliament also referred to the problems with the application of the Coastal Law and supported the Spanish governments objectives to protect the coastal environment to

promote bio-diversity and the regeneration of indigenous species of fauna and flora; yet it cannot support the retroactive aspects of this law (why was not anything done since 1988 when the law was originally approved) nor the disproportionate impact on individual citizens' legitimate property. We can certainly not support the speculators and promoters who have constructed massive tourist complexes with the complicity of local authorities in the face of the 1988 Coastal Law. They should have known better.

Concerning the budget:

In the report adopted last March, the European Parliament recalled that, as budgetary authority, it has the powers to put funds into the reserve if it considers this necessary in order to convince a member state to end violations of community law and the basic principles of the European Union.

As we have not seen any clear signs of a genuine will and effort to solve the problems pointed out in Parliament's Resolution, the Green/European Free Alliance Group has tabled an amendment to the draft budget for the Union.

If adopted, the amendment would set 185 million euro in reserve to show Parliament's determination to those autonomous communities in Spain which persistently and seriously breach their obligations to respect the principles upon which the Union is founded, in particular systematic infringements of Community law in the context of urbanisation plans.

That money would stay in the reserve until the European Parliament has received guarantees that no such plans will be approved and adopted, and repealed and replaced by plans which respect the fundamental right to private property as protected by the European Convention on Human Rights, as well as Community law in the essential aspects mentioned in Parliament's resolution of 26 March 2009.

(The Budget Committee will vote on the amendments next week, 28-30 September and Parliament's plenary vote on next years budget will be held in Strasbourg, 19-22 October)

I am well aware of the fact that the Spanish economy is in a deep recession, and that unemployment is a serious concern in Spain at the moment. Against this background, freezing European funds might seem a very hard approach. However, I am convinced that trying to go on with business-as-before, that is continuing with the numerous projects for large scale urbanisation would only be a recipe for the return of a deeper crisis. It is simply not a realistic perspective for the economy!

I would therefore like to point out that the European Union could offer funding for other economic activities, such as improving the energy efficiency of buildings and housing. This could offer relatively rapid relief for the severe employment situation in the construction sector, while at the same time allowing for both private and public savings, and greater energy independence in the future.

Improved water management is one of the priorities the Cohesion Funds, which could be used to upgrade and restore the existing infrastructure for water transmission. With reportedly some 40 % of the water in the region being "lost in transmission", such measures could do much to improve the availability of water for human consumption and agriculture - while at the same time providing jobs.

However, if the regional government of, for instance, the autonomous community of Valencia persists in its policies and violations of the EUs basic principles and laws, why should the EU help with its funding for this?

What more can be done?

By the Spanish authorities of course a great deal must be done and quickly, to respect the views of the European Parliament on this issue.

The Parliament, through the Petitions Committee, will continue to speak out in support of you all and ensure a proper follow-up to the resolution is given.