



## Parliamentary questions

15 February 2013


E-001631-13

Question for written answer  
to the Commission

Rule 117

Chris Davies (ALDE)

### ▶ Subject: Marine conservation around Gibraltar

 Answer(s)

With regard to the area up to 5 km from and around the coast of Gibraltar:

1. Which Member State(s) is/are legally responsible for supervision and control of fishing activities?
2. Which Member State(s) is/are legally responsible for activities affecting the seabed?
3. Are any Natura 2000 sites located within the area and, if so, which Member State(s) is/are responsible for their management and protection?

OJ C 371 E, 18/12/2013

Last updated: 28 February 2013

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## Parliamentary questions

3 April 2013

E-001631/2013

### Answer given by Mr Potočník on behalf of the Commission

The Commission is not in a position to comment on the legal responsibilities of Member States in the area in question, as jurisdictional issues concerning these marine waters are a matter for Member States to address in accordance with the United Nations Convention on the Law of the Sea.

Additionally, the Commission would refer the Honourable Member to its answer to written questions **E-3840/2009**, **E-4972/2009**, **E-7777/2011** and **E-4503/2012**.

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OJ C 371 E, 18/12/2013

Last updated: 10 April 2013

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## Parliamentary questions

25 September 2009

E-3840/2009

### Answer given by Mr Dimas on behalf of the Commission

The Commission confirms that in the context of the latest update, pursuant to the Habitats Directive<sup>(1)</sup>, of the list of Sites of Community Importance (SCI) for the Mediterranean Region in December 2008<sup>(2)</sup>, a new site, nominated by Spain, called 'Estrecho Oriental' ES6120032 was included. Gibraltar has instituted legal proceedings against this Commission decision before the European Court of Justice on the grounds that this new Spanish SCI overlaps with a SCI of the UK, called 'Southern Waters of Gibraltar' included in the first version of the Mediterranean list in 2006<sup>(3)</sup>.

The Commission points out that in accordance with the procedure set out in Article 21 of the Habitats Directive, all Member States concerned are consulted before lists are adopted and updated. The Commission's decision of December 2008 to update the Mediterranean list received a favourable opinion from all the Member States present at the meeting of the Habitats Committee.

The inclusion of the site ES6120032 was done on the basis of the criteria set out in Annex III (Stage 2) of the Habitats Directive and the relevant documentation (Standard Data Form comprising the ecological information on the site and map indicating its boundaries) formally provided by the Spanish authorities to the Commission. It is the responsibility of the Member State authorities to acquire knowledge on the existence and distribution of the natural habitat types and species in their territory and supply the necessary information for their proposed SCIs, in accordance with the criteria and provisions set out in the directive. The request of the Honourable Member for full access to and details of all the information acquired by the Commission in relation to the designation of ES6120032 will be treated in accordance with Regulation (EC) No 1049/2001 of the European Parliament and the Council of 30 May 2001, regarding public access to Parliament, Council and Commission documents.

Finally, the Commission has no competence in relation to territorial disputes between Member States and does not consider that the designation process under the Habitats Directive is the appropriate tool with which to resolve them.

(1) OJ L 206, 22.7.1992.

(2) Commission Decision 2009/95/EC of 12 December 2008, OJ L 43, 13.2.2009.

(3) Commission Decision 2006/613/EC of 19 July 2006, OJ L 259, 21.9.2006.

Last updated: 6 November 2009

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## Parliamentary questions

1 December 2009

E-4972/2009

### Answer given by Mr Dimas on behalf of the Commission

As far as the Commission understands, the territorial dispute between Spain and the United Kingdom in relation to the marine waters off Gibraltar is long standing, predating the accession of both Member States, with both countries claiming sovereignty in relation to this geographic area.

The Commission does not consider that Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora<sup>(1)</sup> is an appropriate mechanism to resolve such disputes between Member States in relation to sovereignty claims over the same territory. Nor does the Commission consider that the listing of the overlapping United Kingdom site 'Southern Waters of Gibraltar' and the Spanish site 'Estrecho Oriental' as Sites of Community Importance for the Mediterranean Region changes the situation in relation to these disputing sovereignty claims, which ultimately will have to be resolved under appropriate international and bilateral mechanisms.

The listing of the two marine sites off Gibraltar demonstrates that both Member States recognise the ecological value of these marine waters. The Commission stresses that obligations arise from the inclusion of a site in the Natura 2000 network of protected areas and that it is for each Member State claiming territorial rights to exercise their responsibilities under the Habitats Directive.

The Commission has indicated to both the United Kingdom and Spain that it is willing to facilitate a process of dialogue and any joint initiatives that they are willing to undertake with a view to ensuring the conservation and management of the disputed marine territory off Gibraltar, including, if they consider appropriate, work on the preparation of a joint management plan for the protection and attainment of the conservation objectives for the site. The Commission has invited the two Member States concerned to engage in such a process and stands ready to respond positively to any steps in that regard.

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(1) OJ L 206, 22.7.1992, p.7.

Last updated: 4 December 2009

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## Parliamentary questions

21 September 2011

E-007777/2011

### Answer given by Mr Potočník on behalf of the Commission

Neither the United Kingdom nor Spain consulted each other prior to formally proposing the UK GIB0002 'Southern Waters of Gibraltar' and ES6120032 'Estrecho Oriental' as sites of Community Importance pursuant to Article 4(1) of Council Directive 92/43/EEC on the conservation of natural habitats and of wild species of fauna and flora<sup>(1)</sup>. The informal consultation, referred to by the Honourable Member, following the initial proposal of 'Southern Waters of Gibraltar' by the United Kingdom, confirmed that neither Member State recognised the sovereignty of the other in relation to the disputed marine waters around Gibraltar, a position that they continue to hold. In relation to both the proposals of the United Kingdom and of Spain, the Commission consulted all Member States in accordance with the procedure set out in Article 21 of the directive prior to the adoption of each of the lists of sites of Community Importance for the Mediterranean and other biogeographical regions covered by the directive.

<sup>(1)</sup> OJ L 206, 22.7.1992.

OJ C 146 E, 24/05/2012

Last updated: 3 October 2011

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## Parliamentary questions

15 June 2012

E-004503/2012

### Answer given by Mr Potočník on behalf of the Commission

The Commission believes that pursuant to the principle of sincere cooperation set out in Article 4(3) of the Treaty on European Union (TEU) a Member State designating a site in an area concerned by a territorial dispute should notify the other concerned Member State before submitting this proposal to the Commission. Whilst it would appear that neither Spain nor the United Kingdom formally undertook this step for the sites they proposed in the disputed territory, the emphasis now must be on the two Member States to cooperate in finding a practical way forward in managing the sites in order to deliver the requirements of Directive 92/43/EEC<sup>(1)</sup> on the conservation of natural habitats and of wild fauna and flora, as such designation implies.

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<sup>(1)</sup> OJ L 206, 22.7.1992.

OJ C 192 E, 03/07/2013

Last updated: 20 June 2012

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