



30.5.2012

NOTICE TO MEMBERS

Subject: Petition 1266/2011 by Pedro Pozas Terrados (Spanish), on behalf of Proyecto Gran Simio (GAP/PGS-España), on moving an orca whale to a zoo in Spain, in violation of the EU Zoo Directive

1. Summary of petition

This petition concerns an orca whale known as Morgan, which is currently kept at the Harderwijk Dolfinarium in The Netherlands. Orca Morgan was found wounded in the Wadden Sea, in June 2010, and received medical care in the Dolfinarium, where she fully recovered. According to the petitioner, a Dutch court has instructed that Orca Morgan now be permanently moved to a zoo in the Canary Islands (Spain). The petitioner, who writes on behalf of association Proyecto Gran Simio (GAP/PGS-España), advocates for the release of Orca Morgan back into the sea, at a location where its family unit is currently known to be. The petitioner, citing a group of experts that form the Free Morgan Group, explains that Orca Morgan's health and well-being will be severely damaged in captivity. Additionally, the petitioner points to the fact that the Court of Justice of the European Union condemned Spain in December 2010 for infringing the EU Zoo Directive (1999/22/EC).

2. Admissibility

Declared admissible on 5 March 2012. Information requested from Commission under Rule 202(6).

3. Commission reply, received on 30 May 2012

The European Commission is aware that a killer whale was rescued by the Dutch authorities in the course of 2010, and in November 2011 was transferred to the Loro Parque in Tenerife

(Spain) which is already hosting killer whales.

The authorities of the EU Member States in question (Spain and The Netherlands) are in charge of the implementation of EU rules governing the import, export and intra-EU trade in wildlife specimens, as laid down in Council Regulation (EC) No 338/97¹ on the protection of species of wild fauna and flora by regulating trade therein, and in the corresponding implementing regulations. It is up to those authorities to implement these rules in relation to the transfer of the killer whale from The Netherlands to Spain.

In this instance, the Commission has been informed that the Dutch authorities consulted with the Spanish authorities who indicated that the transfer to the Loro Parque was in line with the requirements of Council Regulation (EC) No 338/97.

Conclusion

The Commission invites the petitioner to liaise with the competent Dutch and Spanish authorities which have been handling the transfer of the specimen concerned.

¹ OJ L 61, 3.3.97