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Karmenu Vella  
Commissioner for Environment, Maritime Affairs and Fisheries

Brussels, 24 May 2018

Subject: Deposit of toxic waste in São Pedro da Cova, Portugal

*Dear Commissioner,*

On 26 February 2016, I submitted a formal complaint to the European Commission regarding the persistent violations of European laws by Portugal through the transfer of toxic and dangerous waste out in the open in a landfill in São Pedro da Cova. In your last letter regarding this case, dating 30 May 2016, you confirmed that “the situation continues to be monitored by the commission’s services with particular care”.

The situation has evolved in the last two years and a criminal procedure has taken place (Procedure n° 4551/10.0TAGDM from the Central Criminal Court of Porto). I have received information that, on 9 November 2017, a ruling considered inappropriate to judge Portugal’s demand for refund for the money spent of waste removal (€ 10.775.503,00) jointly with the other ongoing charges in the case, meaning that the State will have to bring a new court action if it wants to determine who is responsible for polluting (and therefore, for the refund). These facts were not yet made public by the Portuguese State, and there is no pending judicial initiative.

In this same procedure, technicians from the Portugal Environment Agency (Agência Portuguesa do Ambiente) who monitor the water where the waste was dumped, testified that it is not possible to say whether the water is contaminated by heavy metals through the samples they have collected. Moreover, they considered the place where the samples are taken inadequate to be able come to such conclusions.

Finally, since 3 January 2012 the Portuguese State has been in possession of the fields where the 321.000 tons of dangerous residues were dumped, without having paid - or offered to pay - the private owners of the property, either for the contamination of their property or for its occupation during the withdrawal operations.

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In light of these elements, I would like to ask you the following questions:

- a) Has the European Commission followed the case thoroughly, as said in the letter dating 30 May 2016, and if so, what are its conclusions?
- b) Regarding the mentioned criminal procedure, according to the European Commission, what should the Portuguese State do as to be able to apply the polluter-payer principle?

I look forward to your response.

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