

**ATT**

**SECRETARIAT OF THE AARHUS CONVENTION,  
ECONOMIC COMMISSION FOR EUROPE  
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**SUBJECT:** Non-compliance of the Aarhus Convention by the Member State Spain

Ms. Ella Behlyarova,  
Secretary to the Aarhus Convention

Pessoas – Animais – Natureza (PAN), a political party with a seat in the Portuguese Parliament, with the NIPC 509779662 and headquarters at the Avenida Almirante Reis, 81-B, 1150-012 Lisboa - Portugal, represented here by André Silva as its Member of Parliament and legal representative, hereby presents a situation that may be deemed as a non-compliance of the Aarhus Convention, requesting therefore the appropriate follow up.

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This is requested on the following terms and grounds:

**I. GENERAL PROVISIONS**

1. The reactor I of the Almaraz Nuclear Power Plant, in Spain, is in operation since 1981, and the reactor II of the above-mentioned plant is in operation since 1983.
2. Since then, there has been a succession of level 1 incidents per the International Nuclear Event Scale, and one of the most serious happened in July 2016, with the safety authority finding and acknowledging that there was a violation of the operational limits of a nuclear power plant.

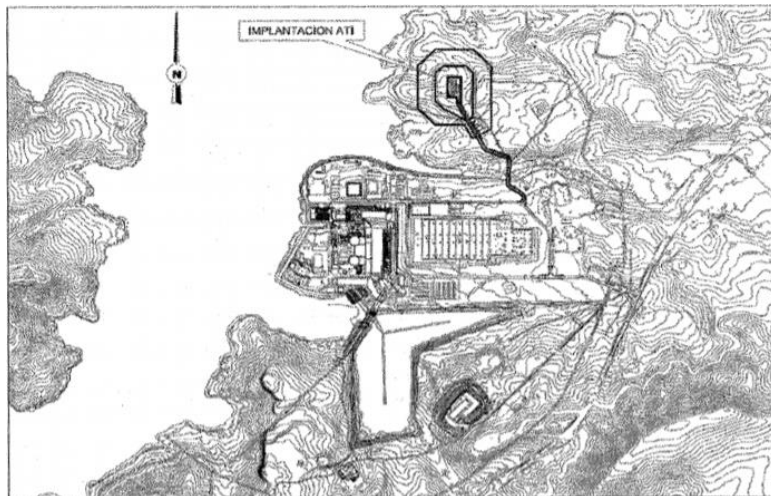
3. Recently, in January 2017 there was another incident involving a valve, that only reinforced the existing fears to which nuclear experts already called attention for.
4. In the Almaraz Nuclear Power Plant's 33 years of life, the incidents and failures have amounted to 2800, making environmentalists warn to the threat that the existence of this nuclear facility poses and to its harmful side-effects.
5. In the year 2020, the Almaraz Nuclear Power Plant will reach the deadline of its operating life license, which can then be extended until 2030 or, in case it isn't extended, the nuclear facility must be dismantled.
6. For that license extension to take place there is a previous need to build an individual temporary storage (ATT) for radioactive waste.

## **II. OF THE NEED TO BUILD AN INDIVIDUAL TEMPORARY STORAGE FOR RADIOACTIVE WASTE**

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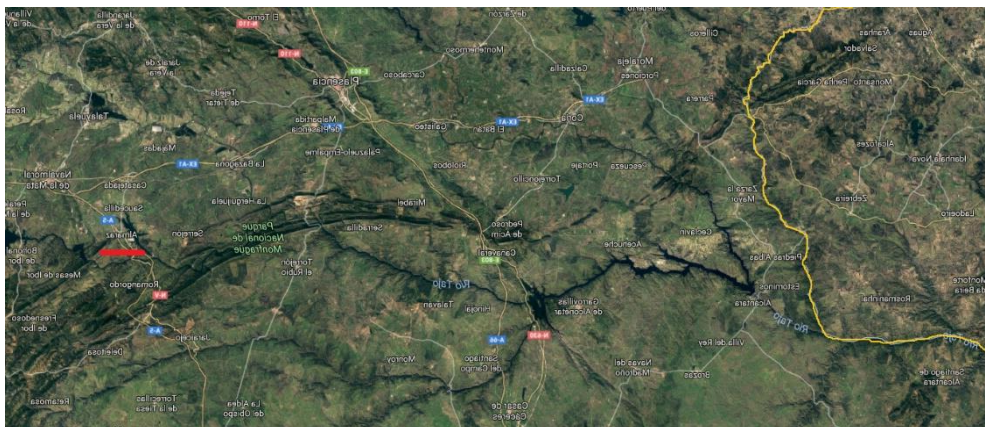
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7. The Radioactive Waste Management Plan approved by the Spanish Council of Ministers on 23 of June 2006 indicated that, in the specific case of the Almaraz Nuclear Power Plant, there is a need to build an individual temporary storage in face of the irradiated nuclear fuel and other nuclear waste.
8. The irradiated nuclear fuel generated at the two units of the Almaraz Nuclear Power Plant is stored under water in the fuel pools.
9. Technical info on the pools states that they will reach their full capacity in August 2017, in the case of unit I, and in December 2019, in the case of unit II.
10. The deployment of an individual temporary storage involves, necessarily, a modification in the design of the Nuclear Power Plant itself, as shown in the image below:



### III. OF THE NON-COMPLIANCE OF THE AARHUS CONVENTION

11. The Aarhus Convention concerns the access to information, public participation in the decision-making and access to justice in environmental matters.
12. It foresees effective public participation and an open decision-making process in matters concerning nuclear energy with long term effects.
13. In the *sub iudice* case, the Spanish State, a Contracting Party of the Aarhus Convention, internally decided to build a temporary deposit for nuclear waste 100Km from the border of the Portuguese State, also a Contracting Party of the above-mentioned Convention, as shown in the image below.



14. Article 6 of the Aarhus Convention, “Public participation in decisions on specific activities”, states that:

“The public concerned shall be informed, either by public notice or individually as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, inter alia, of:

- (a) The proposed activity and the application on which a decision will be taken;
- (b) The nature of possible decisions or the draft decision;
- (c) The public authority responsible for making the decision;
- (d) The envisaged procedure, including, as and when this information can be provided: (i) The commencement of the procedure; (ii) The opportunities for the public to participate; (iii) The time and venue of any envisaged public hearing; (iv) An indication of the public authority from which relevant information can be obtained and where the relevant information has been deposited for examination by the public; (v) An indication of the relevant public authority or any other official body to which comments or questions can be submitted and of the time schedule for transmittal of comments or questions; and (vi) An indication of what environmental information relevant to the proposed activity is available; and
- (e) The fact that the activity is subject to a national or transboundary environmental impact assessment procedure.”

15. It continues, on paragraph 3, that the public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public, and for the public to prepare and participate effectively during the environmental decision-making.

16. The Annex 1 list of activities includes, in point 1 – Energy Sector: Installations designed solely for the storage of irradiated nuclear fuels or radioactive waste in a different site than the production site.

17. It is precisely this activity that appears on Appendix 1 that Spain wants to build and that, under the terms of the above-mentioned Article 6, requires that the public is informed in an effective, timely and appropriate manner.
18. Since there was no such notification, the whole procedure laid out in the subsequent articles is flawed and totally closed.
19. After all, Spain never informed Portugal that the above-mentioned construction of the ATI had been internally authorized and that it would be pushed forward.
20. The contacts between the Parties occurred after Portuguese citizens pressured the country's Government to take the initiative and that all diplomatic channels were used to do it.
21. In meetings between the Spanish and the Portuguese Governments, an understanding was not reached, namely about the obligation to conduct an Environmental Impact Assessment (EIA), as foreseen in the Espoo Convention as well as the Directive n° 2011/92/EU of 13 of December 2011, modified by the 2014/52/EU of 16 of April 2014.
22. Also, Spain didn't explain the absence of communication about the construction of the ATI, therefore precluding the possibility of information and participation of the public in the decision-making process in a matter where Portugal is affected due to the proximity of the above-mentioned ATI.

Therefore, we ask the Commission to take the initiative to start an investigation, in the face of a potential violation of the Convention by the Kingdom of Spain.

Best regards,



André Silva