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# Communications to the Aarhus Convention Compliance Committee concerning Spain\_ Nuclear Plants Santa Maria de Garoña and Almaraz

## I. Information on correspondent submitting the communication

Full name of organization or person(s) submitting the communication: Political party PAN (Pessoas-Animais-Natureza)

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## II. Party concerned

Kingdom of Spain

## III. Length of the communication

The communication does not surpass ten A4 pages.

## IV. Facts of the communication

Regarding the communication concerning the construction of an individual temporary storage facility for radioactive waste for the Almaraz nuclear power plant:

1 – The individual temporary storage facility (ATI), located in the premises of the nuclear station of Almaraz, is being currently constructed since the permit is already validated by the Minister of Energy.

After the report emitted by the Portuguese Environmentalist Agency (APA), in March of 2017, stating that she complies with ATIs project, and in which APA only added minor recommendations, the Spanish government started the construction. This agreement came after APA visited the location of the project, in the nuclear plant, and also after the Spanish entities shared the required documents to analyze the ATI construction. A public summary of APAs report can be found here: [https://apambiente.pt/\\_zdata/DESTAQUES/2017/Almaraz/ATI\\_CNA\\_MemoPub.pdf](https://apambiente.pt/_zdata/DESTAQUES/2017/Almaraz/ATI_CNA_MemoPub.pdf)

2 – The Spanish government only carried out a national Environmental Impact Assessment (EIA). This did not take into account any public participation from Portugal - the Portuguese public was not informed of possibilities to participate, neither by the Portuguese authorities, nor by the Spanish authorities, in spite of the potential transboundary impacts. Portuguese authorities only had access to the documentation of the ATI after political pressure, but no transboundary EIA was started, nor was the Portuguese public invited to participate in the national Spanish EIA.

3 – Neither we, nor any other Portuguese organization that we know, has sought to challenge the absence of Portuguese public participation in the permitting of the ATI before Spanish courts. This is due to the lack of knowledge of the Spanish system and not having had responses from the Spanish side that indicated where we could appeal. Also the costs and needed people capacity for such a foreign legal remedy without any guidance from the side of the country of origin would be, in our understanding, extra-proportional. However we would be prepared to take such steps if the costs could be kept low and the juridical path for remedy would be clear.

4- Yes, the individual temporary storage facility is intended for the storage of nuclear waste for more than 10 years. Another large concern is that the current ATI may be the basis for the construction of a larger nuclear depository in the form of a centralized storage where radioactive waste from all of Spain, not only from Almaraz I and II, can be stored for a (very) long period of time.

.Regarding the communication concerning the lifetime extension of the nuclear power plant at Santa Maria de Garoña:

5 – On 1 August 2017, the Spanish government did not authorize the renewal of the exploitation license of the nuclear plant in question, which indicates that the power station is to be closed and decommissioned.

6 – The Spanish government did not made a transboundary EIA for this case either.

7 – Although for the earlier decision by the Spanish government, that enabled life-time extension of the Santa Maria de Garoña nuclear power station, no transboundary EIA was made, this situation has been made irrelevant by the following closure of the plant. We therefore do not pursue further steps on this issue.

## V. Provisions of the Convention alleged to be in non-compliance

In both cases, Santa Maria de Garoña and Almaraz nuclear plants, the Spanish Kingdom did not comply with the **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

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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.”

On paragraph 3, it continues, stating 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. This did not occur.

In summary, 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.

#### **VI. Nature of alleged non-compliance**

Spain didn't explain the absence of communication about this subject, 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 Nuclear Power Plant.

#### **VII. Use of domestic remedies**

This issue is already replied in the IV item.

#### **VIII. Use of other international procedures**

No other international procedure, besides the Aarhus Convention Compliance Committee, have been invoked to address the issue of non-compliance which is the subject of the communication.

#### **IX. Confidentiality**

The information contained in this communication is to maintain public.

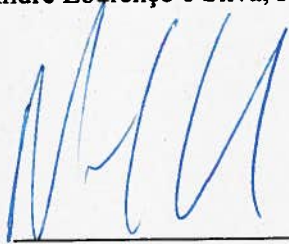
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**X. Supporting documentation (copies, not originals)**

No further documentation was added to this communication.

**XI. Signature**

Sign and date the communication of André Lourenço e Silva, PANs spokesperson.

A handwritten signature in blue ink, consisting of stylized, overlapping letters, positioned above a horizontal line.