

Annex 1

Espoo Convention complaint

**ATT
IMPLEMENTATION COMMITTEE,
CONVENTION ON ENVIRONMENTAL
IMPACT ASSESSMENT IN A
TRANSBOUNDARY CONTEXT
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SUBJECT: Non-compliance of the Espoo Convention by the Member State Spain

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Ms. Tea Aulavuo,
Secretary to the Espoo Convention, UNECE

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 Espoo Convention, requesting therefore the appropriate follow up.

This is requested on the following terms and grounds:

I. GENERAL PROVISIONS

1. The reactor I of the Almaraz Nuclear Power Plant, in Spain, distancing less than 100 km from Portuguese boarder, 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 up to 1 incident per the International Nuclear Event Scale, the last of which happened in June 2020, with the safety authority finding and acknowledging that there was a violation of the operational limits of a nuclear power plant.
3. In the Almaraz Nuclear Power Plant's 39 years of life, the incidents and failures have amounted to up to 3000, making environmentalists warn to the threat that the existence of this nuclear facility poses and to its harmful side-effects. In 2017, in Slovenia, there was a serious nuclear accident at a plant that uses the same reactors as Almaraz.
4. In June 2020, the Almaraz Nuclear Power Plant reached the deadline of its operating life license, after an extension of exploration provided in 2010¹.
5. In May 2020, the Spanish regulatory body for the nuclear activity (CSN – Consejo de Seguridad Nuclear) had authorized the extension of exploration of both Almaraz reactors up to 2028, subject to final decision of Spanish Government, according to the Portuguese Government (declarations on the Portuguese Parliament).
6. In May, June and July 2020, the Portuguese Minister of the Environment and Climate Action, affirmed, in the Portuguese Parliament, that Portuguese authorities had send a letter to Spanish authorities claiming an environmental impact assessment, including transboundary effects, on the extension of exploration of Almaraz Nuclear Power Plant.

¹ <https://www.csn.es/documents/10182/27922/Orden%20ITC-1588-2010,%20de%207%20de%20junio,%20por%20la%20que%20se%20concede%20renovaci3n%20de%20la%20autorizaci3n%20de%20explotaci3n%20a%20la%20Central%20Nuclear%20Almaraz,%20Unidades%20I%20y%20II>

7. In 25th July 2020, press media announced the decision of the Spanish Government of authorizing the extension of exploration of Almaraz Nuclear Power Plant up to 2028², which means the function of a nuclear power plant with almost 50 years old, when the life cycle is 30 years old.

II. THE EXTENSION OF EXPLORATION OF ALMARAZ NUCLEAR POWER PLANT UP TO 2028

8. The extension of exploration of Almaraz Nuclear Power Plant up to 2028 poses serious added risks of nuclear accidents. A technical document issued by the international atomic energy agency³, sets clearly that “ageing degradation of NP components may have an adverse impact on the effectiveness of the defense in depth. Various ageing processes occurring in NPPs gradually degrade characteristics of plant components, may reduce design safety margins and cause failures of both process and safety system components. In particular, it is possible that degradation may not be revealed during normal operation and testing, but may lead to failure or even multiple common cause failures of redundant components under transient conditions (e.g. high pressure, vibration, steam, electrical pulse) associated with an operational upset or accident.”.
9. Recently, on the 22nd and 27th of June 2020, two incidents occurred in both reactors at the Almaraz Nuclear Power Plant. On the 22nd of June, in the reactor I, during the energization process after the recharge, it was automatically stopped as a result of the turbine trip caused by the action of the electrical protection of the main alternator. On 27 June, reactor II automatically shut down as a result of operation of train B of the reactor protection system. According to the CSN (Consejo de Seguridad Nuclear), the reactor was in the hot standby mode (mode 3), with all parameters stable. These types of incidents are of a different type from those previously verified and in areas other than where the CSN had already identified the need for intervention to authorize the extension of the operation of the Plant until

² <https://jornaleconomico.sapo.pt/en/news/espanha-renovou-licencas-de-exploracao-da-central-nuclear-de-almaraz-are-2027-e-2028-617869>

³ https://www-pub.iaea.org/MTCD/publications/PDF/te_540_prn.pdf

2020, namely those related to hydrogen escape valves and failures that had occurred in the motors of the cooling system pumps.

10. Almaraz nuclear power plant was designed for a 30 years life cycle that ended in 2010. The recent decision of the Spanish Government of authorizing the extension of exploration of Almaraz Nuclear Power Plant up to 2028 will lead to an extension of more than 65% of the projected years of life. According with the international atomic energy agency, “component ageing contributed to approximately 30% of the reported failures”. Thus, this extension of exploration of Almaraz Nuclear Power Plant up to 2028 will lead to a substantial increase in the risk of nuclear accidents occurrence and those risks may not be revealed during normal operation and testing.

III. OF THE NON-COMPLIANCE OF THE ESPOO CONVENTION

11. The Espoo Convention establishes the obligations of the Parties in the environmental impact assessment of certain activities in an early planning phase.
12. The article 1 of the Espoo Convention defines "Proposed activity" as any activity or any major change to an activity subject to a decision of a competent authority in accordance with an applicable national procedure. The extension of exploration of Almaraz Nuclear Power Plant up to 2028 is a “major change” to the activity due the substantial increased risk of nuclear accidents occurrence as explained before. This “major change” was subject to the decision of Spanish authorities (CSN) and government in “accordance with an applicable national procedure”. Thus, the extension of exploration of Almaraz Nuclear Power Plant up to 2028 should be considered as a "Proposed activity".
13. Given that Article 3 of the Espoo Convention stipulates that if a proposed activity included in Appendix I is likely to cause a significant adverse transboundary impact, the Party of origin shall, for the purposes of ensuring adequate and effective consultations under Article 5, notify about this activity any Party which it considers may be affected as early as possible and no later than when informing its own public.

14. In the list of activities of Appendix I, number 2 b) refers to Nuclear power stations and other nuclear reactors, including the dismantling or decommissioning of such power stations or reactors.
15. It is precisely this activity that appears on Appendix 1 that Spain wants to made a “major change”, that, under the terms of the above-mentioned Article 3, requires notification with the indication of a reasonable time within which the affected Party must inform if it intends to participate in the environmental impact assessment (EIA) procedure.
16. Since there was no such notification, the whole procedure laid out in the subsequent articles is flawed.
17. Espoo Convention’s Article 3, number 7 stipulates that: *“When a Party considers that it would be affected by a significant adverse transboundary impact of a proposed activity listed in Appendix I, and when no notification has taken place in accordance with paragraph 1 of this Article, the concerned Parties shall, at the request of the affected Party, exchange sufficient information for the purposes of holding discussions on whether there is likely to be a significant adverse transboundary impact.”*
18. Proceeding to its number 8: *“The concerned Parties shall ensure that the public of the affected Party in the areas likely to be affected be informed of, and be provided with possibilities for making comments or objections on, the proposed activity, and for the transmittal of these comments or objections to the competent authority of the Party of origin (...).”*
19. Now, in the case at issue Spain understands that it is not required to fulfill such requisites.
20. However, under the terms of the Espoo Convention in its Articles 4 and 5, such an obligation is requested to the Party of origin, since that Party holds the necessary information to conduct the assessment.

21. Without this EIA, the Portuguese State will remain uncertain of the real transboundary environmental impact and, in that sense, we need the intervention of the Committee to review the situation herein stated.

22. The case of the Almaraz Nuclear Power Plant is similar to a case that was brought to the Committee attention about the extension of the lifetime of the nuclear power plant of Rivne, in Ukraine, in which the Committee found that the extension of the lifetime of a nuclear power plant should be considered a significant change in an activity and, therefore, subject to the provisions of the Convention⁴.

Therefore, we ask the Committee 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

⁴ <https://www.unece.org/environmental-policy/conventions/environmental-assessment/areas-of-work/review-of-compliance/committee-initiative/eiaicci4-ukraine.html>