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Letter addressed to the Implementation Committee from organizations cooperating in the project "Reconnecting Iberian Rivers"

IMPLEMENTATION COMMITTEE

CONVENTION ON THE PROTECTION AND USE OF
TRANSBOUNDARY WATERCOURSES AND
INTERNATIONAL LAKES (WATER CONVENTION)

UNITED NATIONS ECONOMIC COMMISSION
FOR EUROPE (UNECE)

The Spanish Technical Secretary has received on 25th of January b2023 a letter from the Implementation Committee of the "Convention on The protection and Use of Transboundary Watercourses and International Lakes (Water Convention)" to inform both Spain and Portugal about the reception of a letter from organizations cooperating in the project "Reconnecting Iberian Rivers". In this letter, the signing organization shows their concern, disconformity, and point of views on the configuration, ways of functioning and some addressed topics by the Albufeira Convention. It has been requested by UNECE the views on the matter of both countries. Without prejudice the information that out Portuguese colleagues may provide to UNECE, The Spanish party of the Albufeira Convention would like to appoint and clarify some issues on the matters highlighted in the letter.

The signing stakeholders consider that:

There is a lack of cooperation between the two countries:

Spain shares five river basins with Portugal, integrated in four international RBDs (Miño-Sil, Duero, Tagus, and Guadiana), which account for most of their scarce water resources. The shared basins occupy 46% of the territory of the Iberian Peninsula - 64% of Portugal and 42% of Spain. They also contain approximately 67% of Portugal's and 39% of Spain's surface water resources. These data highlight the importance of these basins for both countries and the necessary coordination in their management.

CORREO ELECTRÓNICO
Bzn-dgasec@miteco.es

|

PL. SAN JUAN DE LA CRUZ S/N
28071 MADRID
TEL.: 91 597 61 35
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The two countries have a long history of establishing partnerships and treaties regarding those rivers dating back to the 19th century, mostly to define boundaries and uses of the rivers' bordering stretches and culminating with the Agreement on Cooperation for the Protection and Sustainable Use of the Waters of the Spanish-Portuguese Hydrographic Basins, better known as the Albufeira Convention (1998).

Besides that, in accordance with Directive 2001/42/EC, provisions 12 to 15 of the Transboundary SEA Protocol and Article 49.4 of Law 21/2013 on Environmental Assessment, Spain and Portugal must articulate the Strategic Environmental Assessment process of the RBMPs in the basins shared between the two countries - Miño-Sil, Duero, Tagus and Guadiana. Specifically, and as part of the process of drawing up the RBMPs and the Flood Risk Management Plans (hereinafter FRMP), cross-border consultations are carried out. The results of the transboundary consultations, as well as the conclusions on the transboundary impacts of water planning, the alternatives studied, the preventive, corrective and, where appropriate, monitoring measures, and how these have been considered in the final versions of the plans in the plan, have been included as information in a specific section of the water plans.

In conclusion, the three-century span in which cooperation and agreement between Portugal and Spain on water planning and management developed, supported by the Water Convention and bilateral agreements, reveal the common interests that entails both countries. The intergovernmental existing structures have definitively supported both countries in their seeking the balance between the environmental protection and the use of water resources for sustainable development of both countries, reinforcing their commitment with the European water law acquis.

The current way of working of the Albufeira Convention is not in line with the requirements and obligations stemming from the UNECE Water Convention. Because of the organizational structure and the ways of working, the Convention is not fit for purpose for its task and obligations deriving from subsequently approved legislation such as the Water Framework Directive (WFD)

Directive 2000/60/EC of 23 October 2000 establishing a framework for Community action in the field of water policy (hereinafter WFD) defines in Article 2 the River Basin District (hereinafter RBD) as the area of land and sea comprising one or more neighbouring river basins and associated groundwater and coastal waters, designated as the principal unit for the purposes of river basin management. Article 3 of the WFD requires that, in the case of river basins covering the territory of more than one Member State, these are included in an international DH.

Article 3.4 of the WFD states for international river basin districts that "Member States shall ensure that the requirements of this Directive (...) are coordinated for the river basin

CORREO ELECTRÓNICO
bzn-dgasec@miteco.es

PL. SAN JUAN DE LA CRUZ, S/N
28071 MADRID
TEL.: 91597 61 35

CSV : GEN-bf0a-a699-542e-ad9f-1e47-75f5-2ae0-281b

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district as a whole. For international river basin districts, the Member States concerned shall carry out such coordination jointly and may, for this purpose, make use of existing structures resulting from international agreements".

Recital 35 of the WFD states that, in river basins where water use may have transboundary effects, the requirements for the achievement of the WFD WOs, and the programmes of measures (hereinafter PoMs), should be coordinated for the whole of the WFD. The same recital states that the implementation of the WFD "should contribute to the implementation of Community obligations under international conventions on water protection and management, in particular the United Nations Convention on the Protection and Use of Transboundary Watercourses and International Lakes [Helsinki Convention], approved by Council Decision 95/308/EC, as well as all subsequent agreements on its implementation".

The delimitation of the RBDs in accordance with Article 3 of the WFD was carried out in Spain through Royal Decree 125/2007, of 2 February, which established the territorial scope of the RBDs, subsequently amended by RD 29/2011. As explained before, Spain shares five river basins with Portugal. Coordination with neighbouring Member States is essential for the achievement of the environmental objectives in river basin districts or basins whose territorial scope is shared between different states.

In compliance with Article 3. 4 of the WFD, the Convention on cooperation for the protection and sustainable use of the waters of the Spanish-Portuguese river basins, usually referred to as the **Albufeira Convention**, is the legal instrument that articulates the cooperation mechanisms between Spain and Portugal for the protection of surface and groundwater and the aquatic and terrestrial ecosystems directly dependent on them, as well as for the sustainable use of the water resources of the Spanish-Portuguese hydrographic basins.

The Convention was signed in the Portuguese city of Albufeira between the Kingdom of Spain and the Portuguese Republic on 30 November 1998 and entered into force in February 2000 (BOE no. 37 of 12 March 2000).

The Albufeira Convention bilateral agreement on water issues covers many topics related with water planning and management, such as:

- The designation and implementation of the river basin management plans
- The coordination in the definition of actions contributing to prevent and mitigate the effects of extreme events as droughts, water scarcity and floods.
- The definition and implementation of flow regimens in the international river basin districts that assures the circulating of enough water in quantity and quality to guarantee both the economic and social uses and the environmental protection.

CORREO ELECTRÓNICO
bnz-dgasec@miteco.es

PL. SAN JUAN DE LA CRUZ, S/N
28071 MADRID
TEL.: 91597 66 76

CSV : GEN-bf0a-a699-542e-ad9f-1e47-75f5-2ae0-281b

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- The coordination of both countries' procedures regarding prevent and control pollution, and water uses, especially those which cause or may cause transboundary impacts.
- The design and carry out common projects to coordinate the respective efforts to improve the knowledge and the management of the waters in the international river basin districts.
- The strength in a shared framework for both countries, of the governance of transboundary water issues and challenges.

The Convention was revised in 2008 to establish a stable framework for the development of the new hydrological planning, according to the WFD. Among the specific actions of this revision was the implementation of a new regime of ecological flows in each of the shared basins. The Protocol revising the Convention was approved by the 2nd Conference of the Parties at its meeting of 19 February 2008 and published in the Official State Gazette on 16 January 2010.

The Commission for the Implementation and Development of the Albufeira Convention (hereinafter referred to as CADC) is the body for the resolution of questions relating to the interpretation and approval of the Convention. Decisions are taken by consensus and are subject to the right of review by the respective governments. Reporting to the CADC are the technical working groups, which submit their conclusions, recommendations, or communications to the Chairmen of Delegations for approval by agreement of the CADC.

Each country has organised and designated a unit to carry out the work that enables both States to cooperate through the CADC. In Portugal it is the Portuguese Environmental Agency (APA), and in Spain it is the Water Planning Unit of the General Water Directorate (Ministry for the Ecological Transition and the Demographic Challenge)

In practice, beyond the formal structures, the Convention's cooperation mechanisms are based on a regular and systematic exchange of information, consultations and activities within the Technical Secretariats and the Convention, and the people engaged in the working groups, and the adoption of technical measures in a spirit of good cooperation.

The signing letter stakeholders recommend an integrated cross-border river basin approach to develop river basin management plans:

For the purposes of applying the WFD, the Spanish and Portuguese authorities agreed to carry out the coordination required by the WFD:

- To use the structures of the Albufeira Convention) to carry out the required coordination.

CORREO ELECTRÓNICO
bzn-dgasec@miteco.es

PL. SAN JUAN DE LA CRUZ, S/N
28071 MADRID
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- That in the second (2016-2021) and in the third (2022-2027) planning cycle the geographical scope of the hydrological plans would correspond to the national territory of each of the international river basin districts.ç

Both countries have applied an integrated cross-border river basin approach in the water planning process sin the first RBMPs and FRMPs. During the second planning cycle (2015-2022), significant progress was made in the transboundary coordination with Portugal. Several meetings were held, at different levels, between the responsible persons and technicians of the planning process of both countries. Therefore, agreements were reached for the identification, delimitation and characterization of border and transboundary masses. Based on these agreements, a joint document was drafted and sent to the European Commission in 2017. This document contains information on approaching a common position on water body typologies, based on the characterization of water bodies, as well as coordination with respect to pressures, protected areas, monitoring and status assessment programs, environmental objectives, programs of measures, public participation and consultation process, and strategies for future work.

A similar coordination document was also prepared, referring to the progress in the implementation of the programs of measures (end of 2018) and to the fitting of the new data in the update of the report required by Article 5 of the Water Framework Directive.

At the XXXII plenary meeting of the CADC (February 2022) it was agreed to strengthen ever more the cooperation in the field of hydrological planning, which for this last phase of work regarding the preparation of the 3rd cycle RBMPs (2022-2027), is being materialized in the design of four documents between Spain and Portugal, one for each of the four joint river basin districts, focused on the border and transboundary water bodies. These documents aim to highlight the cooperation carried out for the preparation of the third hydrological plans of both countries for the four international river basin districts, as well as to be a summary of them.

These 4 documents, gathering and synthesizing the key results of the preparation of the hydrological plans of the third cycle (2022-2027) of the Spanish and Portuguese parts, will be finalized in the summer of 2023 and sent to the European Commission. They will be in the three languages (Spanish, Portuguese, and English) to be distributed to all the stakeholders and to the public in general. In the next planning cycle, it is foreseen to carry out these documents with a broader scope, not limited to the transboundary water bodies but to cover the entire international river basin district, as an international river basin management plan.

CORREO ELECTRÓNICO
bzn-dgasec@miteco.es

PL. SAN JUAN DE LA CRUZ, S/N
28071 MADRID
TEL.: 91597 66 76

CSV : GEN-bf0a-a699-542e-ad9f-1e47-75f5-2ae0-281b

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The Albufeira convention in its current form is not fully suited to address the impacts of climate change:

The Albufeira convention includes formally and in practice the coordination in the definition of actions contributing to prevent and mitigate the effects of extreme events as droughts, water scarcity and floods.

Firstly, Spain and Portugal draw up hydrometeorological reports to monitor the flow regime established in the agreement. Since October 2020 (beginning of the 2020-2021 hydrological year), the reports of both countries include a chapter of information on extreme hydrological phenomena, where the drought and scarcity indices are updated in accordance with the Spanish Special Drought Plans. This report is sent to Portugal and this country sends the information on drought in accordance with its own indices. In the Spanish case, the reports are also published in the [Hydrological Bulletin](#) for public access.

Secondly, in the year 2021/22, hydro-meteorological conditions combined with a very singular drought situation occurred, which forced the conditions foreseen in the Agreement on the management of the flow regime to the maximum. As a result of what happened that hydrological year and in anticipation of future similar events, since February 2022 multiple meetings have been held between Spain and Portugal at all levels, to analyse the hydro-meteorological behaviour in the shared basins, to monitor at least monthly the flow regime established in the Albufeira Agreement and to maintain constant and fluid interaction with the Portuguese authorities.

At the XXXIII plenary meeting of the CADC (held in Lisbon on 15th of December 2022)), both Parties reiterated the importance of the meetings on the monitoring of the flow regime and the added value they have brought in terms of good cooperation and exchange of information between both countries, as well as anticipation of adverse situations with regard to the flow regime.

It was also agreed that the monthly monitoring meetings at technical level of the flow regime would be complemented by two additional meetings of senior officials of the water authorities, one meeting in mid-February and one in May, to assess and anticipate measures to be taken after the winter and before the summer, respectively.

In drought situations, as determined at the May meeting, senior officials of the water authorities should meet as often as appropriate to articulate the release of flows to promote compliance with the Convention.

On the other hand, at the XXXIII plenary meeting of the CADC, Spain and Portugal have agreed to reinforce the measures to be adopted to prevent and tackle water scarcity in the river basins shared by both countries within the framework of the Albufeira Convention and after a year marked by the drought that has affected both countries.

CORREO ELECTRÓNICO
bzn-dgasec@miteco.es

PL. SAN JUAN DE LA CRUZ, S/N
28071 MADRID
TEL: 91597 61 35

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Thirdly, during the XXII plenary meeting CADC meeting, held on 10.02.2022, it was approved the mandate and composition of a specific working group on drought and floods, with the aim to deep the bilateral cooperation in this area.

Complementary to this, in the context of the European Union, the 2022-2024 Work Programme of the Common Strategy for the implementation of the Water Framework Directive has been launched. The Commission wants to give greater prominence within water policy to quantitative water management, specifically to ecological flows (eflows) and the allocation of resources (water balances), as it considers these to be two key issues for achieving good ecological status of water. This is what the Commission calls "Enhancing water resilience", which has to do with the quantitative management of water resources by the Member States. This represents a qualitative leap in the Commission's action in water policy because it has been focused mainly on quality aspects, and not so much on the future regulation of quantity aspects through the WEI+ indicator, basically to limit the impact of the most water-consuming economic activities (agriculture and industry).

Within this structure, an ad-hoc working group on drought and scarcity was created, co-chaired by the European Union, Spain, and Portugal (ATG on Water Scarcity and Droughts)

This group held its first meeting in April 2022 and has a working mandate with the documents that will result from it, including a document on good practice cases on transboundary cooperation in drought and scarcity management. This document is expected to be elaborated in the second half of 2022 and after discussion and agreement within the working group and the decision groups of the Common Implementation Strategy, it will be presented as a contribution to the United Nations Water Conference in March 2023.

Both countries are co-leading the work on deliverables 5 and 6 of this European group. Regarding Deliverable 5 "Report on WS&D management in terms of river basin management planning and risk reduction", its elaboration is scheduled for the first quarter of 2024. - This deliverable is led by PT, with the support of Spain and the Commission. It aims to address water and sanitation management in terms of river basin management planning and risk reduction, including the issue of water security in the context of climate change.

Deliverable 6 "Report on good practices on water allocation mechanism" is led by Spain, with the support of Portugal and the Commission. It is also planned for 2024 and is a report on water allocation mechanisms under the WFD, describing their key features (legal regimes and water rights, reserve of allocatable resources, allocation, and reallocation mechanisms, monitoring and enforcement) and identifying good practices that the Commission understands related to scarcity and drought management.

As a conclusion, both countries are strongly involved in the consolidation of the Iberian position at European level in drought prevention and management, and to this end they continuously participate in technical meetings of the working group.

CORREO ELECTRÓNICO
bzn-dgasec@miteco.es

PL. SAN JUAN DE LA CRUZ, S/N
28071 MADRID
TEL.: 91597 66 76

CSV : GEN-bf0a-a699-542e-ad9f-1e47-75f5-2ae0-281b

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The warning and alarm systems are poorly coordinated.

During the XXII CADC (February 2022), a Protocol of real-time information for the management of extreme weather events was agreed. The application of the Protocol involves generalising the system implemented in the Tagus RBD since 2013-2014, which has been taken as a starting model, to all international basins.

Both Parties have been working technically in the development of the Protocol, integrating its requirements in the existing automatic hydrological information systems in the Spanish and Portuguese RBDs. It is expected the Protocol can be put in practice during the summer of 2023 and the results shows in an app or website.

Apart of the Protocol, where there is an extreme event, mainly floods, the Spanish and Portuguese water authorities are in real-time 24/7 coordinated to prevent and manage floods and its consequences.

There is an ongoing deterioration of the ecological and environmental qualities of the shared rivers between Spain. The Albufeira Convention does not pay sufficient attention to restoring the ecological and environmental connection of the river basins shared by Portugal and Spain and there is no joint monitoring of the indicators to assess the conditions of the shared basins.

On one hand, the Albufeira Convention establishes the framework for cooperation between Spain and Portugal for the protection of surface and groundwater and the aquatic and terrestrial ecosystems directly dependent on them.

The second Protocol for the Revision of the Albufeira Convention, approved on 19 February 2008 by the Conference of the Parties and published in the BOE Nº14 of 16.01.2010, establishes minimum annual, quarterly, weekly, and instantaneous volumes that, in different control sections, must be provided by both countries except in exceptional situations. These exceptional situations, also established in the Convention, are identified based on the rainfall accumulated in certain reference rain gauges. The flows set are intended to ensure that water uses, and those that may exist in the future, are sustainable in each of the basins considered, i.e. that the hydrological and environmental functions of rivers and estuaries are preserved.

On the other hand, the third RBMPs (2022.2027) for both countries, just finished and pendent to be officially published, does not show a deterioration of the ecological and environmental qualities in the transboundary water bodies of the four international RBDs.

The detailed information can be found in the corporative websites of the APA (Agencia Portuguesa do Ambiente) and General Water Directorate of Spain (Ministry for the Ecological Transition and the Demographic Challenge of Spain):

CORREO ELECTRÓNICO
bzn-dgasec@miteco.es

PL. SAN JUAN DE LA CRUZ, S/N
28071 MADRID
TEL.: 91597 61 35

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Portugal

- [Minho e Lima \(RH1\)](#)
- [Douro \(RH3\)](#)
- [Tejo e Ribeiras do Oeste \(RH5A\)](#)
- [Gadiana \(RH7\).](#)

Spain:

- [Miño-Sil](#)
- [Duero](#)
- [Tajo](#)
- [Gadiana](#)

The Convention does not actively promote joint cross-border research:

Spain and Portugal have developed during the last years several research projects involving transboundary waters and Some examples of this cooperation are the following projects:

- [“Migra Miño”](#) _ Protection and conservation of migratory fish in the international section of the Miño River and its tributaries
- [“Valagua”](#) _Environmental valorisation and integrated management of water and habitats in the lower Gadiana River
- [“ACECA”](#) _Actions for the control and elimination of camalote in the transboundary section of the Gadiana River"
- [“Nor-Water”](#) _Emerging pollutants in Galician-Northern Portuguese Waters New tools for risk management

Due to its importance, it can be highlighted the [POCTEC "Albufeira" project](#), aimed at the joint and coordinated implementation of actions between Spain and Portugal to promote and protect the good status of the shared water bodies of the Miño-Sil, Duero, Tagus and Gadiana hydrographic basins and their associated ecosystems. Specifically, it focuses on 68 water bodies (rivers, reservoirs, and transitional waters), and on a surface area of 58 000 hectares of protected areas integrated in the Natura 2000 Network in Spain and Portugal.

Under this project, recently finished (December 2022), several important works have been carried out:

- The analysis of the methodologies for the assessment of the ecological status or potential of shared water bodies used un both countries and a proposal of harmonisation.

CORREO ELECTRÓNICO
bnz-dgasec@miteco.es

PL. SAN JUAN DE LA CRUZ, S/N
28071 MADRID
TEL.: 91597 66 76

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- The monitoring of ecological status or potential of shared water bodies for joint assessment:
- In the case of heavily modified water bodies, the develop a catalogue of mitigation measures.
- The improvement of the integration of the environmental objectives of the Water Framework Directive and the Habitats Directive in water-related Natura 2000 site: mapping of habitats of interest linked to water bodies and the determination of the ecological requirements of the species and habitats that support the water bodies considered in the project.

Moreover, there is another relevant project carried out in recent times (December 2021) between Spain and Portugal: [the RISC ML project](#) (in the Miño-Limia RBD). It was created to improve the management and capacity to react to the problems associated with extreme events (floods and drought) and to mitigate their effects in the international hydrographic demarcation of the Miño and Limia river basins. The project was a success, and it has been presented another RISC_ML 2 project to be granted in this 2023 call.

It is especially important to highlight the relevance of having strong and active permanent secretariats in both countries to develop a fluid exchange of available information and the implementation of common initiatives between the Parties, on matters governed by the Convention, on a regular and systematic basis.

Establishment by the competent authorities of a permanent and independent technical secretariat

It has been identified the need to create a Permanent Technical Secretariat (PTS) structure of the Albufeira Convention, to be permanent, stable over time, independent of both countries and in charge of the organisation, promotion, and development of the Convention's issues. At present, many international demarcations in the EU have an International Commission within the framework of which they have a permanent General Secretariat structure:

This Permanent Technical Secretariat will perform both general management and supervisory functions (carried out by an executive secretary) and technical functions depending on the issues addressed (carried out by specialised technical staff). Some of the technical topics are: hydrological planning in the international district (hydrological plans and flood risk management plans); water management in the river basin district (including pollution control, drought and scarcity, etc.); data, geographic information and web; and participation and communication.

At the XXXIII plenary meeting of the CADC (held on 15.12.2022 in Lisbon), the conditions for the functioning of the Permanent Technical Secretariat of the CADC were established to

CORREO ELECTRÓNICO
bzn-dgasec@miteco.es

PL. SAN JUAN DE LA CRUZ, S/N
28071 MADRID
TEL.: 91597 61 35

CSV : GEN-bf0a-a699-542e-ad9f-1e47-75f5-2ae0-281b

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facilitate continued cooperation between the two countries, especially in relation to the management of water bodies and the hydrological planning of shared basins, which will be presented to the governments of both countries for their consideration.

The approval of the proposal for the creation of the Permanent Technical Secretariat of the CADC has already been submitted to the Ministers of both countries for ratification.

It is impossible for CSOs and other stakeholders to participate. They are not able to get updated information or be involved in the work of the CADC or any of the thematic working groups. In term of stakeholder engagement, accountability and transparency, the Albufeira Convention does not live up to what is required by an international convention.

As it has been explained, the CADC is the cooperative body for the achievement of the objectives of the Convention. Its composition, structure and operation are governed by a Statute, which does not provide for the participation of stakeholders in the application and development of the Convention.

Notwithstanding the above, in one hand the technical secretariats of the Convention participate when requested in conferences and events established by the stakeholders, maintaining a fluid communication with them.

On the other hand, all the stakeholders take actively part in the processes of elaboration of the hydrological planning of each country, where a specific space and time is dedicated to the transboundary cooperation in this matter and in which the stakeholders are always included, both at formal (transboundary consultations, strategic environmental assessment) and informal level (thematic meetings that may be organized). During the 2022-2027 hydrological planning process (and in previous cycles), several days of public participation and consultation have been organized with stakeholders with the joint participation of Spain and Portugal.

Finally, the [Albufeira Convention website](#) was created as a tool to allow the interested public to visualize progress in the implementation of the Albufeira International Convention, and to broaden knowledge on transboundary aspects. This platform is key to show the progress in the implementation and development of the Albufeira Convention.

In addition to the Albufeira Convention website, MITECO's corporate website has an information section on the Convention.

Currently, the Technical Secretariat of the CADC of Spain, located in the Directorate General of Water, is responsible for updating and modifying the contents of this page, after coordination with the Portuguese Party. The content structure of the website was agreed by both countries at the meeting of the Hydrological Planning Working Group, held in Porto last March 2015.

CORREO ELECTRÓNICO
bnz-dgasec@miteco.es

PL. SAN JUAN DE LA CRUZ, S/N
28071 MADRID
TEL.: 91597 66 76





The website was programmed with the TRIDION content management platform and is from an IT point of view very complex to update or modify. Moreover, it is currently located on the servers of the Ministry of Agriculture and Fisheries (MAPA), which also makes it difficult to update. This set of reasons means that, at present, the Albufeira agreement website is very outdated both in design and content, as has been stated in several meetings by the agents interested in the agreement on both sides of the border.

To respond to the CADC agreement for the maintenance and management of the Albufeira website by the Spanish side, it is required firstly to migrate the Albufeira website from the MAPA servers (current location) to the MITECO servers (location in the short term). MITECO's IT services have informed that this migration process is already underway and is scheduled to be completed in summer 2023. Once this is completed, it will be possible to proceed to update the contents, upload new ones and undertake a potential restructuring to make it more didactic, accessible, and transparent.

WATER DIRECTOR

TEODORO ESTRELA MONREAL

(Electronically signed)

CORREO ELECTRÓNICO
bzn-dgasec@miteco.es

PL. SAN JUAN DE LA CRUZ, S/N
28071 MADRID
TEL.: 91597 61 35

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