



Our Mission:

Promote sustainable development and conservation of the natural and cultural heritage, by training citizens to become active agents of education, intervention, and environmental advocacy.

Our Reference: 08 | GEOTA | 24

Implementation Committee

Your Reference:

Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) | United Nations Economic Commission for Europe (UNECE)

Date:12/04/2024

Subject: Implementation and Application of Water Convention in Iberia – Information Exchange

Dear Mr. Atilla Tanzi,

We hope this letter finds you well. We are writing on behalf of the project Reconnecting Iberian Rivers Coalition (RIR) to extend our heartfelt appreciation to the UNECE Implementation Committee under the Water Convention for allocating time to listen to our concerns at the exchange of views session during its 17th Meeting.

The Committee outlined a series of points regarding the correspondence exchanged with Portugal and Spain, and its correspondence with our coalition, RIR. In this letter, we would like to respond to the matter of **jurisdiction**, the matter regarding the **lack of a joint body**, **insufficient public participation** and finally regarding **concrete information on the impact that these issues have caused in the environment**.

Jurisdiction

The Implementation Committee (hereafter, Committee) rightfully opened the exchange of views by clarifying that, charged with facilitating the implementation and application of [The Convention on the Protection and Use of Transboundary Watercourses and International Lakes](#) (hereafter referred to as [UN WC](#)), it could only pronounce itself on matters directly contained therein.

The Committee cannot directly address matters outside its scope, such as the Water Framework Directive (onwards, WFD) or the Albufeira Convention. Nonetheless, the fact that these three texts govern the transboundary management of hydrological resources between Portugal and Spain means they are inextricably linked and have been brought up by the RIR project to illustrate that, where there is non-compliance of one text there is non-compliance of all.



Our Mission:

Promote sustainable development and conservation of the natural and cultural heritage, by training citizens to become active agents of education, intervention, and environmental advocacy.

The UN WC is operationalized through the Albufeira Convention, where Portugal and Spain have “...enter[ed] into bilateral ... agreements... in order to define their mutual relations and conduct regarding the prevention, control and reduction of transboundary impact” (Article 9 (1), [UN WC](#)) with the purpose “... to develop harmonized policies” (Article 2 (6), [UN WC](#)).

Similarly, the elements relating to transboundary cooperation of the WFD should also be operationalized through the Albufeira Convention - nonetheless, noting the comments by the Committee, this letter will limit itself to showcasing how implementation of the UN WC has been stymied by the failure to fulfill the Albufeira Convention.

Insufficient Public Involvement

The first example of this noncompliance is the insufficient public involvement in the decision making process. The UN WC has an entire article (Article 16) dedicated to the obligation that Riparian Parties have to ensure that information is made available to the public.

This obligation is systematically violated by the Parties, as showcased in our previous correspondence. The website regarding the quality objectives, conditions, impacts and measures taken on transboundary waters has not been updated since 2018. To our knowledge, transboundary level assessment has not occurred at all. If this obligation had been conducted collaboratively, it should have been published on the Albufeira Convention website. It hasn't.

The Albufeira Convention website is completely outdated and is hardly accessible, the links are missing or broken, to the point where [even the text of the Convention itself is impossible to find](#). This lack of information extends to other aspects: There is no information regarding when its governing body meets, what it discusses or what it agrees. This has made it extremely difficult for CSOs to be informed, let alone participate in this process.

In order for Article 16 of the Water Convention to be complied with, information has to be made available to the public, in a language that the public understands. We have been unable to find information regarding objectives, conditions, impacts and measures taken on transboundary river basins in Portuguese when these are made in Spain and vice versa: No information regarding Portuguese measures has been translated into Spanish ¹.

¹ The [Portuguese website](#) that hosts all River Basin Management Plans and is thus the basis of public information and participation cannot be accessed in any language other than Portuguese; whereas the [Spanish site](#) has been

Our Mission:

Promote sustainable development and conservation of the natural and cultural heritage, by training citizens to become active agents of education, intervention, and environmental advocacy.

But this obligation is not fulfilled even within the states themselves. The Portuguese Commission for Access of Administrative Documents has registered numerous complaints revealing a generalized and systematic lack of access to information in this country ², situation that is also evidenced by the Open letter to the Ministry of Agriculture and Food signed by various organization denouncing an inability to effectively participate ³.

Furthermore, the independent Programs of Measures (PoMs) outlined in the River Basin Management Plans (RBMPs) for 2022-2027 present a notable deficiency in the level of detail provided for actions dedicated to the conservation and restoration of shared water bodies. In Spain. The documents fail to adequately describe the specific actions intended for each proposed measure, depriving interested stakeholders of the opportunity to understand and evaluate the plans for each restoration initiative. The lack of precise definitions for many of these measures hinders a comprehensive evaluation and makes transboundary comparison and measurement very hard, not only on their suitability for restoring specific river stretches and wetlands but also regarding other critical aspects such as cost-effectiveness analysis, their impact on the indicators used for assessing the status of water bodies, and the monitoring strategies intended to track the progress of these restoration efforts. For effective integrated water management, it is imperative that such information is made available in a timely manner, allowing stakeholders to contribute informed feedback and engage constructively in the restoration process.

Civil Society Organizations have been able to organize themselves in an ecosystem-based approach, without regard to national boundaries, and consistently and voluntarily gather to exchange grievances and knowledge ⁴. It is contrary to the principles of the UN WC and ancillary environmental acquis that for these Organizations to then have their voices heard they must disband according to national borders to

translated into many languages, including French and English, but not Portuguese. The outcome is that, far from encouraging public information and participation, the current system serves as an impediment.

² Please see the following complaints as just a few examples of this generalized practice happening over time:

<https://www.cada.pt/files/pareceres/2022/294.pdf>

<https://www.cada.pt/files/pareceres/2022/258.pdf>

<https://www.cada.pt/files/pareceres/2018/369.pdf>

<https://www.cada.pt/files/pareceres/2018/370.pdf>

<https://www.cada.pt/files/pareceres/2023/478.pdf>

<https://www.cada.pt/files/pareceres/2018/299.pdf>

³ [Irrigation policy in Portugal must be defined with effective and territorial-based public participation - Agroportal](#)

⁴ Signing collective manifestos: [Manifiesto-Tajo-2024.pdf \(asambleadigital.es\)](#)

Establishing transboundary working groups: [Inicio - Red del Tajo/Rede do Tejo \(redtajo.org\)](#)

And holding conferences for Citizen Networks: [proTEJO - Movement for the Tagus: The Citizenship Network for a New Water Culture in the Tagus/Tajo and its Rivers meets in Aranjuez at the XII Journeys for a Living Tagus \(movimentoprotejo.blogspot.com\)](#)

Our Mission:

Promote sustainable development and conservation of the natural and cultural heritage, by training citizens to become active agents of education, intervention, and environmental advocacy.

try their luck in their respective countries. A River is one, and transborder organizations should be able to bring transboundary problems to a transborder governing authority.

Lack of a Permanent Joint Body

A permanent joint body is necessary and instrumental in remedying the other shortcomings of this transboundary cooperation; issues that were already anticipated in the 2008 Conference of Parties, which conceded that as a remedy, a **Permanent & independent Technical Secretariat** would be set up⁵.

The UN WC anticipates that *“The agreements or arrangements mentioned in paragraph 1 of this article shall provide for the establishment of joint bodies. The tasks of these joint bodies shall be... (b) To elaborate joint monitoring programmes concerning water quality and quantity» (c) To draw up inventories and exchange information on the pollution sources mentioned in paragraph 2 (a) of this article» ... (e) To elaborate joint water-quality objectives”* (Article 9 (1), [UN WC](#)).

This article assigns a long list of duties to these ‘joint bodies’ which, to our understanding, must necessarily be the bodies of the Albufeira Convention since there is no other organism charged with transboundary hydrological management between Spain and Portugal.

The Committee asked whether there was any information we were lacking, and we would point to the functioning of the Albufeira Convention as one of the information vacuums, especially regarding mandate of the different bodies, who constitutes them, which bodies they form, how they work, how the decision making process works, the results of monitoring, etc. CSOs are unable to discern when the meetings are happening, what the agenda is, or how to participate in them. We have tried to involve ourselves in this process but have been unsuccessful and have also been unable to find where to submit our complaints regarding inaccessibility of the procedure.

We encourage this Secretariat to finally be established, for its mandate to be accessible, and its decision making process clear and participatory. The mandate should include:

1. Ensuring public information (in both languages) is hosted on a platform that serves as a one-stop-shop and is regularly updated.
2. Meetings are disclosed with sufficient advance notice, the agenda is disclosed as are the decisions and conclusions of the meetings.
3. Fostering public participation, including hosting all public consultations and notices on its own updated website, ensuring these are translated to the language of the neighboring country.

⁵ We take advantage of this fact to point out that indeed, most circumstances regarding transboundary remain identical to those evaluated in 2004: <https://fnca.eu/biblioteca-del-agua/directorio/file/2127-1306271428-helena-caballero?search=1>

Our Mission:

Promote sustainable development and conservation of the natural and cultural heritage, by training citizens to become active agents of education, intervention, and environmental advocacy.

4. Ensuring transboundary monitoring is done in a concerted way, publishing easily contrastable data.
5. Ensuring transboundary obligations are met, especially regarding ecological flows, and that these transboundary obligations anticipate a reduction in water availability as forecasted by the IPCCs latest documents.

Consequences of insufficient transboundary cooperation

The Committee also asked for concrete information regarding the impact of the lack of the joint body, especially with regards to addressing the main issues brought up in our earlier correspondence. We see environmental parameters all as competence of the Committee because the main purpose of the Water Convention is to prevent, control and reduce transboundary impact. Under the UN WC “*Transboundary impact*” means any significant adverse effect on the environment... within an area under the jurisdiction of another Party” (Article 1 (2), [UN WC](#)).

All the complaints we have been signaling, when put in practice, mean that a dam, reservoir, or polluting industry can be set upstream in Spain without knowledge or effective means of participation by affected stakeholders downstream in Portugal. This is a clear violation of Articles 3 & 5 of the UN WC, and becomes a live example of what Committee Member [Stephen McCaffery](#) explains, where “... *harm can travel upstream and downstream in various forms... Riparian states downstream cannot properly plan its water resources in absence of proper planning done by the upstream state*”. We have offered sufficient examples above where CSOs have complained about pollution, lack of ecological flows and a deficient participatory process, so we will dedicate this section to specific consequences of insufficient transboundary cooperation.

The methodology employed in Spain for calculating ecological flow data, along with the fact that these calculations are done without involving the downstream Riparian state of Portugal, have significant consequences for the latter ⁶. Despite an explicit agreement to do so ⁷, the concerned Riparian states have failed to collaboratively establish an ecological flow regime for the shared water bodies in the lower Guadiana Basin.

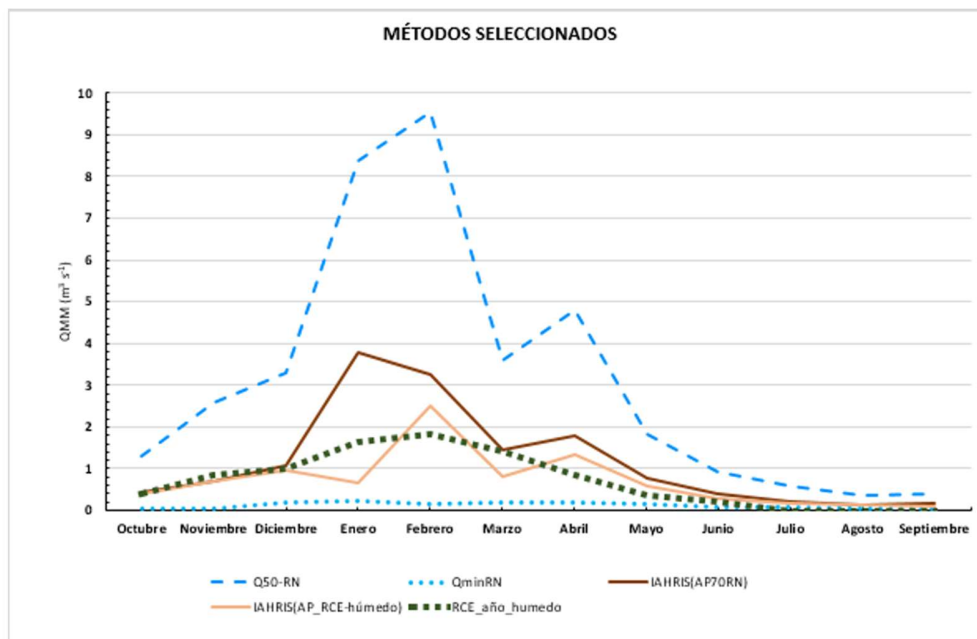
⁶ As evidenced by the situation of hydrological deficit in Portugal, directly linked by over extractions in Spain: <https://fnca.eu/biblioteca-del-agua/directorio/file/2896-vulnerabilidade-de-portugal-a-seca-e-escassez-de-agua?search=1>

⁷ Specifically articulated in the additional protocol annexed to the Albufeira Convention, within sections 2 and 3.

Our Mission:

Promote sustainable development and conservation of the natural and cultural heritage, by training citizens to become active agents of education, intervention, and environmental advocacy.

In Spain, the currently established minimum ecological flow is lower than the minimum flow observed in other water bodies, such as in Chanza. This conclusion is drawn from a report conducted under the RIR project, that we send in attachment.



The provided figure, from the above-mentioned report, illustrates that from June to September, the ecological flow regime (dark green dotted line) falls below the estimated natural minimum flow (blue dotted line). This discrepancy indicates that the currently established ecological flow regime does not meet the expected natural minimum flow, thereby proving insufficient for the environmental conservation objectives that the ecological flow aims to serve. The estimation of ecological flow must, as closely as possible, replicate the expected natural flows and, crucially, should never fall below the registered minimum flow.

This reality cannot be deemed in compliance with the obligation to prevent, control and reduce transboundary impact, since the Riparian State of Portugal is receiving less water than the estimated natural flow, making it impossible for it to then secure its own minimum flows and its own environmental obligations - situation which is reflected in the numerous complaints from Portuguese stakeholders ⁸.

⁸ As an example, the Tagus river: [proTEJO defended a living and free river with ecological flows in Spain | Middle Tagus \(mediotejo.net\)](http://proTEJO defended a living and free river with ecological flows in Spain | Middle Tagus (mediotejo.net))

Our Mission:

Promote sustainable development and conservation of the natural and cultural heritage, by training citizens to become active agents of education, intervention, and environmental advocacy.

Incoherent management of a shared river basin cannot be deemed in compliance with the ecosystem-based approach of this Convention. Nor can this system ensure a “(i) Sustainable water-resources management” if one country is perpetually having to manage a hydrological deficit caused by its upstream Party (Article 3 (1), UN WC).

This lack of integrated governance has sparked multiple complaints, for example, [denouncing the repeated algae blooms of the highly toxic cyanobacteria and putrid odor originating from Spain and flowing into the Portuguese section of the Tagus River](#) which, [despite being investigated by Spanish authorities](#), have not materialized in any real change; or [the plea that the two governments coordinate in restoring ecological status, ecological flows and reducing pollutants in joint river basins](#).

A quick check to the Programme of Measures of each State showcases that each of them has different monitoring programmes, measurement systems, techniques, and methods for registration. This monitoring is also done in complete isolation from the other state, all of which is mentioned constitutes a clear violation of Article 11 (3) & (4) of the UN WC.

Insufficient transboundary cooperation also has consequences for the achievement of international restoration objectives (such as point 2.2.7. Of the EUs Biodiversity Strategy for 2030). Major differences exist in the type and the extent of river rehabilitation actions in the same river basins, between the Portuguese and the Spanish territory. For example, while Spain implemented the removal of obsolete dams as a river restoration strategy in transboundary basins, being the country with more dam removals in Europe (according to the last Dam Removal Progress Report of 2022), in Portugal this strategy is still far from being systematically implemented. Spanish authorities cannot fulfill international restoration commitments without proper transboundary cooperation, since a restored river cannot be considered in good status if the Portuguese section does not follow suit.

Conclusions

We see a matter of competence of the Committee to hold the necessary investigations to promote compliance with its mandate. Since the UN WC is operationalized through the Albufeira Convention as well as the EU environmental *acquis*, we ask the Committee to encourage the two States to comply with the Albufeira Convention, by establishing a permanent secretariat that ensures joint monitoring and the joint establishment of ecological flows, and a formalized process for doing so that permits public participation.



Our Mission:

Promote sustainable development and conservation of the natural and cultural heritage, by training citizens to become active agents of education, intervention, and environmental advocacy.

We would ask the Committee to help us find information on the current functioning of the Albufeira Convention bodies so our suggestions can be better informed.

On a larger scope, we ask the Committee to keep in mind our complaints, regarding the appearance of adequate transboundary cooperation which does not materialize in practice and to consider this as a topic of conversation for its next meeting on the 04 & 05 July 2024 as well as looking into how **transboundary cooperation** under the Water Convention can be improved on the ground at the tenth session of the Meeting of the Parties (Ljubljana, 23–25 October 2024).

We petition the Committee for aid in bringing about these changes, because without them we see no way that water resources can be managed *so that the needs of the present generation are met without compromising the ability of future generations to meet their own needs* (Article 2 (5)(c), [UN WC](#)).

Sincerely,

Ana Catarina Miranda
(Project Manager)

On behalf of the following partner organizations:



(GEOTA, ANP-WWF, Rede Inducar, Wetlands International- EA, WWF Spain)