

1ST SUBREGIONAL COOPERATION MEETING IN THE MEDITERRANEAN SEA
ROME, 28-29 MAY 2024

**PROTOCOL OF ACTION BETWEEN THE GOVERNMENT OF THE KINGDOM OF SPAIN
AND THE GOVERNMENT OF THE PORTUGUESE REPUBLIC ON THE APPLICATION OF
ENVIRONMENTAL ASSESSMENT TO PLANS, PROGRAMS AND PROJECTS WITH
TRANSBOUNDARY EFFECTS**



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FRAME

- Regional cooperation model between the two EU countries
- Based on the practical application of the legal regime established in the Espoo Convention (Art. 8) and EIA Directive (Art. 7)

ORIGINS

1. Spontaneous traditional cooperation:

- Spanish-Portuguese border one of the oldest of the world;
- Result of interactions between the populations on both sides of the border from end of 13th century (La “Raya”/ A “Raia”): cultural, social, economic & commercial aspects.

2. Institutional cooperation, based on written rules and subject to formal procedures with the involvement of public agents/institutions:

- Incorporation of Spain & Portugal into the European Union (1986)
- Decisive influence of European funds: the European Regional Development Fund (ERDF) and the INTERREG Community Initiative → creation of major infrastructures



Protocol of action between the Government of the Kingdom of Spain and the Government of the Portuguese Republic on the application of environmental assessment to plans, programs and projects with transboundary Effects

(February 19th, 2008)

- Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (Art. 7);
- Directive 2001/42/EC of the European Parliament and of the Council on the assessment of the effects of certain plans and programs on the environment;
- Agreement on Cooperation for the Protection and Sustainable use of the waters of the Hispanic-Portuguese Hydrographic Basins (Albufeira Convention);
- Spanish and Portuguese legislations

Objectives:

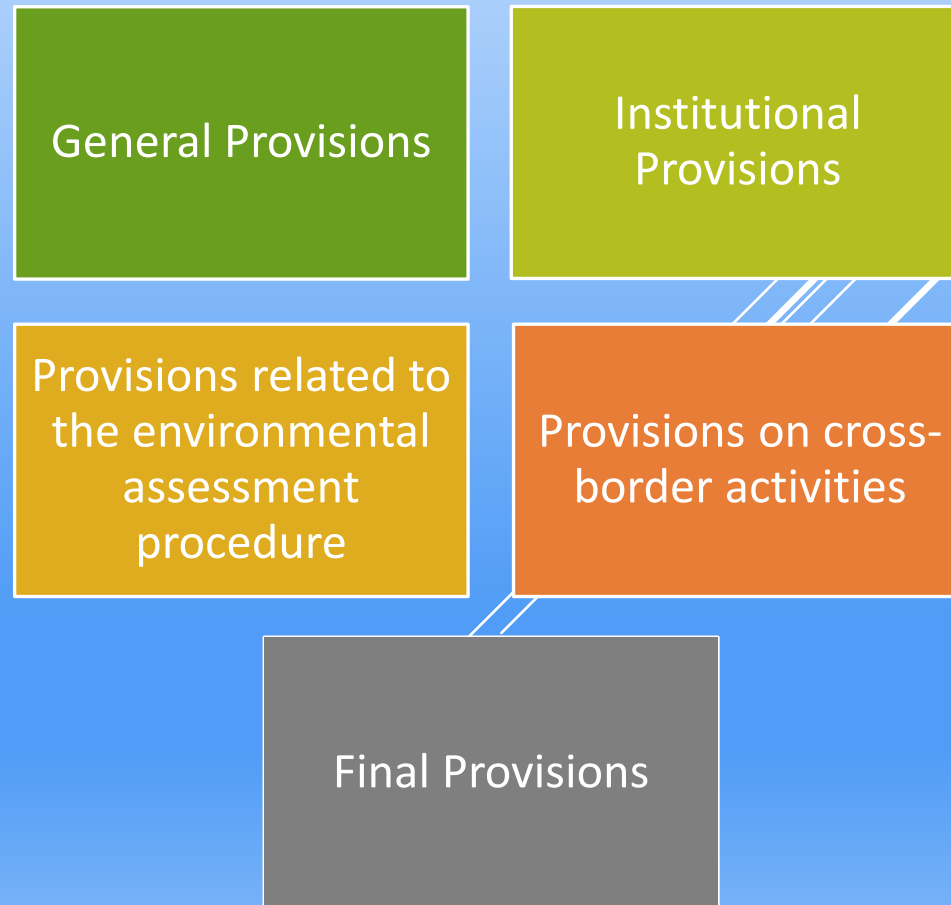
- To anticipate any environmental impact generated by PLA/PRG/PRJ in the neighboring country & to take measures to avoid or mitigate it;
- To harmonize rules & procedures on transboundary consultations in both countries to strength cooperation and coordination;
- Facilitate monitoring of PLA/PRG/PRJ through establishment of a notification and answering procedure to the authorities of affected Party within a established deadline;
- Guarantee public participation, as set out by the Aarhus Convention.



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CHARACTERISTICS:



Protocol of action between the Government of the Kingdom of Spain and the Government of the Portuguese Republic on the application of environmental assessment to plans, programs and projects with transboundary effects

General Provisions

Notification to the Affected Party

2. If a plan, programme or Project subject to environmental assessment in application of national or Community legislation is likely to have significant environmental effects in the other State, the other State shall be notified so that it may participate in the environmental assessment procedure if it wishes to do so. Consultation shall also take place if the other State so requests.

Elements of the Protocol

3. For the purposes of this Protocol, the following elements are part of the environmental assessment procedure:
 - Determination of the scope of the environmental impact assessment
 - Environmental impact assessment and environmental sustainability report
 - Public consultation procedure, including transboundary consultations
 - Environmental impact statement or environmental assessment
 - Follow-up



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Institutional
Provisions

Official Communications

5. Official communications between the two States will be carried out through the respective **Ministries of Foreign Affairs**

Follow up meetings

8. The competent authorities will hold meetings every six months to analyze aspects related to environmental assessments, institutional and procedural aspects, unless extraordinary meetings are called at the request of the parties.



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Provisions related to
the environmental
assessment procedure

Notification to the Affected Party

9. Notification to the affected party will be made at the beginning of the environmental impact assessment process.
10. Description of the elements to be contained in the notification

Answer of the Affected Party

11. Description of the elements to be included in the answer of the Affected Party.

Transboundary Consultations

- 12 -15. Description of the procedure for carrying out transboundary consultations: **affected administrations and interested public** and maximum **time required** to send to the competent authority of the other state its opinion on the potential cross-border effects and measures to reduce or eliminate them (**3 months deadline**).



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Provisions related to
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Approval or Authorization

16. The Part of Origin shall communicate to the Affected Party the final decision and the manner in which the transboundary consultations were taken into account.

Follow up actions

17. During the transboundary consultations, the competent authorities of the two States may determine, at the request of either of them, the actions for monitoring the transboundary effects of the plan, program or project and the form of information on these actions.



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Provisions on cross-border activities

Final Provisions

18. Where a project, plan or programme covers both States, the competent authorities of both States may determine, prior to the initiation of the environmental assessment, the institutional and procedural arrangements for carrying it out. **Wherever possible, a single assessment of the project, plan or program should be undertaken** in compliance with the requirements of transboundary consultation.

19. Modifications of the Protocol

20. Enter into force

21. When the Protocol will cease to be in effect



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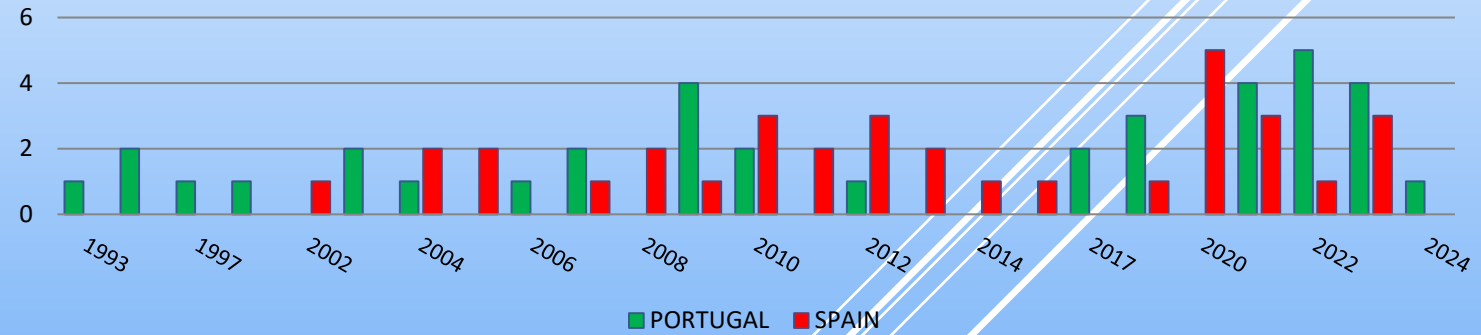
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SOME DATA...

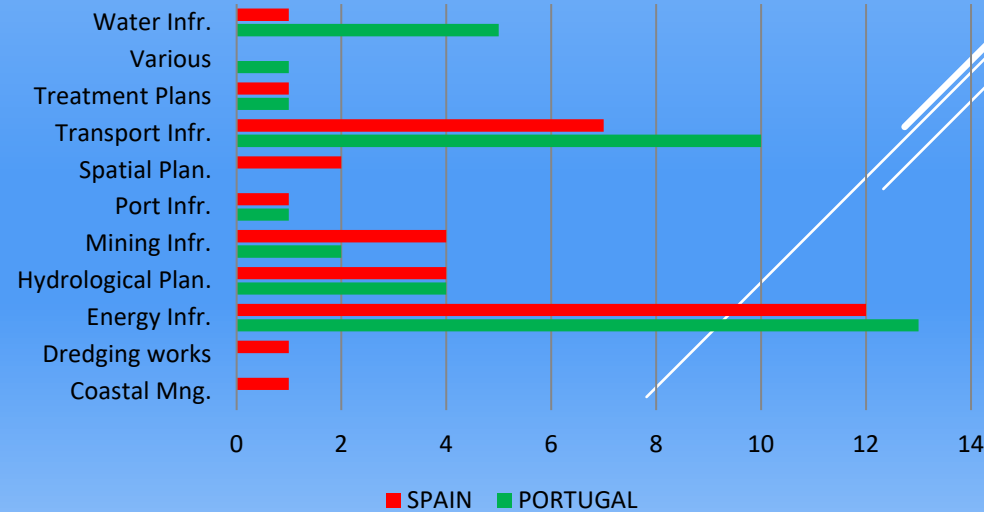
**Total Number of Transboundary Consultations
Projects/Plans/Programs (1993-2024)**



**Transboundary Consultations
Projects/Plans/Programs (1993-2024)**



**Projects/Plans/Programs Categories
(1993-2024)**



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LESSONS LEARNED ...



Importance of notifying another country to mitigate potential environmental impacts and above all to strengthen interstate collaboration.



Regular communication among the environmental bodies of both States to resolve doubts and difficulties.



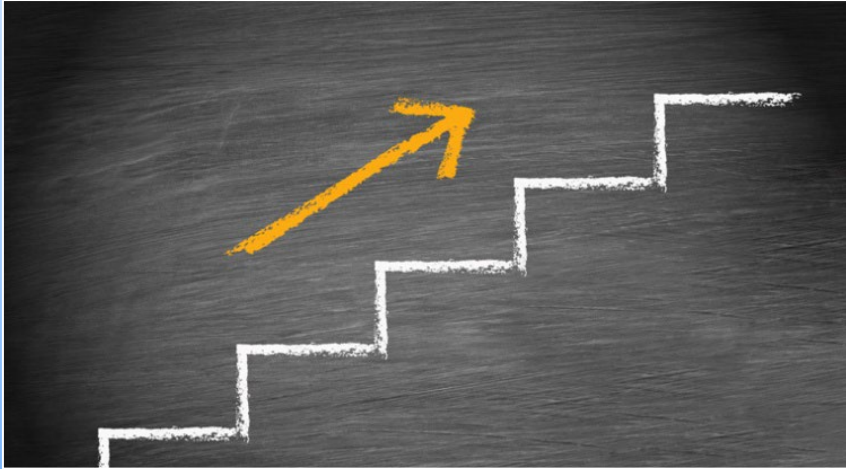
Importance of establishing cooperation & coordination among competent authorities of both countries to speed up the process when necessary, promote better understanding of the national procedures and identify potential obstacles/concerns.



Relevance of making available the document on transboundary environmental effects translated into the language of the Affected Party. This facilitates participation of relevant competent authorities and interested public.



OPPORTUNITIES FOR IMPROVEMENT ...



- Increase joint cross-border consultations on issues of mutual interest (i.e hydrological plans, flood risk plans, or maritime spatial plans), including set up of assessment commissions integrating authorities from both countries.
- Seek mechanisms to facilitate the feedback from stakeholders during transboundary consultations.
- Clarify in the Protocol the coordination process to be followed by the different administrations involved in the process and their role within the process (national and regional).
- Strengthen the interactions among Parties to enhance a common understanding of the criteria that trigger the need for a transboundary consultation and the level of detail/scope of the EIA documentation.
- Consider within the transboundary environmental assessment the potential cumulative impacts that may be produced.
- Think about environmental assessment in the development of common policies between countries to guarantee a territorial and sustainable vision of the natural environment.
- Improve coordination between administrations, as in decentralized countries such as Spain, the regional administration has significant decision-making and environmental competences.



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Thank you for your attention!



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