

**From:** Aarhus Punto Focal [REDACTED]

**Sent:** vendredi, 4 octobre 2024 11:15

**To:** ECE-Aarhus-Compliance <[aarhus.compliance@un.org](mailto:aarhus.compliance@un.org)>; Aarhus Punto Focal [REDACTED]

**Cc:** Fiona Marshall <[fiona.marshall@un.org](mailto:fiona.marshall@un.org)>; SG de Relaciones Internacionales MITECO [REDACTED]; Antonio Nieto Magro [REDACTED]; Jaime Loreto Fraile Jiménez de Muñana [REDACTED]

**Subject:** RE: Decision VII/8p (Spain) - communicant's comments on Party concerned's statement for open session at Committee's 84th meeting

Dear Fiona, dear compliance committee,

Mr. Peñalver has a point. Like I explained during the hearing, there can indeed be instances when a party participates in the IEP procedure and they may not be considered an interested party. I used the example of a rival company trying to meddle in the IEP procedure of a competitor. That is an obvious case where their rights would not be affected and thus they may not be considered an interested party.

But like Mr. Peñalver explains, any environmental NGO will be considered an interested party by fulfilling very simple requirements. As for the general public, and like I explained in my intervention and is reiterated in my statement, the fact that they have a legal right to participate and to obtain information of environmental nature, entitles them to be an interested party if they require so. For the final decision on IEP is considered environmental information and they have a right to obtain it, there is no reason why they can participate at the beginning of the procedure and request to be considered an interested party for notification purposes. And on top of that, they can also use their right to a healthy environment, protected in article 45 of the Spanish Constitution, as a right that may be affected by an IEP procedure.

By claiming those rights, they fall within para b) of article 4 of Law 39/2015 on the concept of interested parties:

*b) Those who, without having initiated the procedure, **have rights that may be affected** by the decision adopted therein.*

As an example of a procedure where people participating in the process are automatically considered as an interested party, I call your attention to the following URL I found with a simple web search:

[SOBRE LA CONDICIÓN DE “INTERESADO” EN UN PROYECTO - Paisajes Teruel](#)

In short, everyone who participated in the process of EIA for a wind power generation facility received a notification confirming that for the remaining part of the procedure, they shall be considered as an interested party. That is the logical consequence and it is backed by the legal reasoning I just explained.

Of course, there are many public administrations and administrative bodies in Spain. Some of them might, indeed, for lack of knowledge of the legal framework, deny this condition to a participant in an environmental procedure. That is unfortunate and this National Focal Point will always be there to assess the general public and to defend their rights in that regard. If Mr. Peñalver or any other party knows of instances where this happens, I'd be more than happy to ensure the rights under the Aarhus Convention and Spanish Legal Framework are respected. But once again, the Spanish Legal Framework is adequate for this purpose, and the fact that, in some instances, it may not be correctly

applied, is not a reason to change it or to claim that it does not comply with paragraph 2 (b) of the Decision VII/8p concerning Spain. I recall here that this para states the following:

*'Take the necessary legislative, regulatory or other measures and practical arrangements to ensure that, in each of its Autonomous Communities, the public is promptly informed of decisions on integrated environmental permits taken under article 6 (9) of the Convention not only through the Internet, but also through other means, including, but not necessarily limited to, the methods used to inform the public concerned pursuant to article 6 (2) of the Convention;'*

Those measures were taken and the current legal framework guarantees proper implementation of the right to be informed. There is no need to further amend RD 815/2013.

I would like to finalize by reiterating that we are always available to assist Mr. Peñalver or anyone in the general public in their exercise of the rights guaranteed by the Aarhus Convention.

Best regards,

**Jaime L. Fraile Jiménez de Muñana**

Jefe de Área

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*Antes de imprimir este mensaje, asegúrese de que es necesario.*