

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

Ms. Tea Aulavuo,

Secretary to the Espoo Convention, UNECE

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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. Nuclenor SA asked for the extension of the lifetime of the Nuclear Power Plant of Santa Maria de Garoña until 2 March 2031, when it will reach 60 years of commercial operation.
2. The above mentioned Power Plant reached the deadline of its operating life license (40 years) in 2011, and it had a permission to operate until 6 July 2013.

3. In July 2012, the Ministry of Industry partially revoked the Ministry Order that established the end of the plant's operation in that date.
4. Nuclenor SA asked for a postponement to request a further extension of the lifespan of the Nuclear Power Plant, and it got that postponement accepted.
5. However, and despite the postponement, it didn't ask for a new license and the Ministry of Industry declared the permanent cessation of the operation.
6. Since December 2012 the Nuclear Power Plant of Garoña has been inactive, and for that reason the National Commission of Markets and Competition has imposed a fine for very serious violation, because it reduced without permission the production and supply capacity of electric power.
7. Nuclenor SA has asked the Ministry of Industry to extend the lifetime of the Power Plant until 2 March 2031 under the Royal Decree for the responsible and safe management of nuclear fuel spent and nuclear and radioactive waste, that allows, once the termination of the operation is ordered, the obtainment of a new permit.
8. Considering that the Garoña Power Plant is the third oldest in Europe and the fifth oldest in the world, its possible reopening presents serious risks that deserve to be known by citizens before the institutions decide to extend its lifetime.

II. OF THE NON-COMPLIANCE OF THE ESPOO CONVENTION

9. The Espoo Convention establishes the obligations of the Parties in the environmental impact assessment of certain activities in an early planning phase.
10. Namely, the legal obligation of notification and consultation in respect of all the projects that are likely to cause a significant transboundary environmental impact.
11. 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.
12. In the list of activities of Appendix I, number 2 refers to nuclear power stations and other nuclear reactors.
 13. It is precisely this activity that appears on Appendix 1 that Spain wants to reopen at the Nuclear Power Plant of Santa Maria de Garoña and 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 procedure.
 14. Since there was no such notification, the whole procedure laid out in the subsequent articles is flawed.
 15. 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.”*
 16. 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 (...).”*
 17. Now, in the case at issue Spain understands that it is not required to fulfill such requisites because *in maxime* Portugal should conduct the EIA.
 18. 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.

19. 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.

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