



## English translation of selected sections of “ANNEX V.1\_spanish\_LEGAL SUIT\_IIDMA\_SUPREME COURT”

Only the highlighted text is translated.

### Section 01 (page 01)

LAWSUIT BEFORE THE SUPREME COURT  
Supreme Court, Third Chamber, Contentious-Administrative  
Section: 005  
Procedure: 002/0000042 / 2017

### Section 02 (page 6)

2.- Only the third version of the TNP was subject to a public participation procedure that, as we will see in the Legal Basis, was a procedure not adjusted to law for not complying with the requirements of the Aarhus Convention.

### Section 03 (pages 9 and 10)

SEVENTH. The Agreement of the Council of Ministers of 25 November 2016 that approved the Transitional National Plan for LCPs, now appealed in accordance with article 29.3. of Law 50/1997, of November 27, of the Government is contrary to Law for the following reasons:

...

B. The TNP was not subject to a public participation procedure under the terms of article 7 of the Convention on Access to information, public participation in decision-making and access to justice in environmental matters, done in Aarhus (Denmark), on 25 June 1998, known as the Aarhus Convention, of which Spain is a Party.

### Section 4 (page 32)

IV.B- Absence of a public participation procedure in accordance with the Aarhus Convention

FOURTEENTH. As it appears in the table describing the process of elaboration and adoption of the TNP, included in the part of the facts of this demand, only the third version of the TNP was subject of a public participation procedure for a period of 21 days, from 4 to 21 December 2015. However, this procedure does not comply with the law because it is contrary to the provisions of the Aarhus Convention.

### Section 5 (page 33)

The designation by the competent public authority of the public that can participate cannot be understood as a method to limit the public that can participate since if this had been the intention this article would have included the public expression interested instead of “public”.



## **Section 6 (page 34)**

On the other hand, the consultation announced on the website of the former MAGRAMA, in December 2015, although opened to the general public, does not comply with the requirements of the Aarhus Convention for the following reasons:

- a) It did not comply with article 6.3 of the aforementioned Aarhus Convention, since a period from 4 to 21 December 2015 is not a reasonable period allowing enough time for the public to prepare and participate in an effective manner. The 4<sup>th</sup> of December 2015 was a Friday and December 7 was Monday, coinciding with the bank holiday on December 8. In this period there were two more weekends and 21 December was Monday. That is, working days were only 9 during that brief period of 18 days and this counting on Monday, day 7. A period of 9 days to comment on a plan of the characteristics of the TNP is clearly not reasonable because it does not allow the public to prepare, that is, familiarize with the purpose of the consultation and then prepare the observations.
- b) It did not comply with the provisions of article 6.4 of the aforementioned Aarhus Convention, as the public consultation was carried out in relation to the third version of the TNP, that is, the public participation did not begin at the start of the procedure, when all options and Solutions were still possible as the third version removed some facilities but the text was identical to the one in the second proposal, which was approved by the Commission in May 2015. Thus, with that consultation the public could not exert a real influence.
- c) It did not comply with article 6.8 of the Aarhus Convention previously mentioned because the administrative file does not include the comments received in that participation procedure and it seems, therefore, that the results thereof were not duly taken into account.

## **Section 7 (pages 37 and 38)**

I respectfully request the Court Room:...

- 1º.- Declare the full nullity of the Agreement of the Council of Ministers of 25 November 2016 and, therefore, of the Transitional National Plan of Large Combustion Plants, since the plan has not been submitted to Strategic Environmental Assessment in accordance with the Law 21/2013 nor to a public participation procedure in accordance with the requirements of article 7 of the Aarhus Convention and, consequently, withdraw the plan. This in accordance with article 62.1.e) of Law 30/1992 and article 47.1.e) of Law 39/2015.