



30.11.2018

NOTICE TO MEMBERS

Subject: Petition No 0327/2018 by Sebastián Pérez Gallardo (Spanish) on the El Cabril nuclear waste disposal facility in Cordoba

1. Summary of petition

The petitioner criticises the storage and transfer of nuclear waste to the El Cabril nuclear waste facility, as it is located near a Natura 2000 area. The petitioner says that the Spanish state is failing to comply with Union legislation on managing nuclear waste and is transporting it in a non-transparent manner. He criticises the decision to locate the facility in this area, questioning whether it is a suitable location.

2. Admissibility

Declared admissible on 18 July 2018. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 30 November 2018

All Member States generate radioactive waste from power generation or in the course of industrial, agricultural, medical and research activities, or through decommissioning of nuclear facilities or in situations of remediation and interventions.

The disposal of radioactive waste in the EU is regulated by Council Directive 2011/70/Euratom¹ (hereinafter the “Directive”). It establishes a Community framework for ensuring the responsible and safe management of spent fuel and radioactive waste in order to avoid imposing undue burdens on future generations, and requires each Member State to establish and maintain a national legislative, regulatory and organisational framework for spent fuel and radioactive waste management that allocates responsibility and provides for coordination between relevant competent bodies.

¹ Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste, OJ L 199, 2.8.2011, p. 48–56

One of the general principles underlying the disposal of radioactive waste in the EU is that each Member State shall have ultimate responsibility for the management of such waste generated in its territory. In particular, the Spanish competent regulatory authority is responsible for ensuring that the transfer of radioactive waste to the *El Cabril* facility and its disposal comply with all national requirements for the safe and responsible management of radioactive waste.

Spain, like other Member States, must ensure the correct transposition of the Directive and the implementation of its requirements by all parties involved. The Commission services found that the Directive was correctly transposed in the Spanish legislation.

The Directive requires each Member State to establish a national programme for the management of spent fuel and radioactive waste with significant milestones and clear timeframes, as well as financial, regulatory and safety arrangements, education and training means, and the research, development and demonstration activities needed in order to implement technical solutions for the management of this waste. Those national programmes and any subsequent significant changes are notified to the Commission.

In 2015, the Spanish authorities informed the Commission in their national programme that the construction of a complementary installation for disposal of current and future radioactive waste was undertaken at the *El Cabril* facility, with a view to managing very low-level waste from nuclear power plants. In February 2016, in reply to the Commission's questions regarding their national programme, the Spanish authorities provided additional information on the said complementary installation.

In August 2018, the Spanish authorities submitted to the Commission the second national report¹ on the implementation of the Directive², including information on the type of radioactive waste currently disposed in the *El Cabril* facility, on the future estimations and on the corresponding safety arrangements. No high-level radioactive waste is declared in the *El Cabril* facility.

It is also to be noted that, according to the Euratom Treaty³, the Member States are required to monitor levels of radioactivity in air, water, soil and foodstuffs, and to communicate this data to the Commission. The Commission has access to monitoring facilities to verify their operation and efficiency.

As regards the implementation of the EU environmental legislation, the Commission notes the following.

According to the first Spanish national report, the Spanish Law 27/2006, regulating the right of access to information, public participation and access to justice on environmental issues (including radioactive waste), requires that the draft legislation on radioactive waste be submitted to public consultation. The said national report also refers to Law 19/2013 on good

¹ Under assessment by the Commission services in order to verify its compliance with Directive 2011/70/EURATOM.

² Member States shall report to the Commission on the implementation of the Directive every 3 years.

³ Article 35 and 36

governance and access to information concerning specifically the public administration, bodies and entities. Furthermore, it refers to Law 21/2013 on environmental assessment which unifies in a single text the legal framework for strategic environmental assessment and environmental impact assessment, both of which require public consultations. In particular, the preparation of the national programme is subject to public consultation under this national legal framework.

The Habitats Directive¹ requires that any plan or project likely to have a significant effect on a Natura 2000 site be subject to an appropriate assessment and shall only be authorised after having ascertained that it will not adversely affect the integrity of the site concerned.

The authorisation for the construction of *El Cabril* facility was granted by Ministerial Order of 31 October 1989, following an environmental impact assessment of the project which was finalised with an Environmental impact statement (EIS) of 17 August 1989. At that time, the Habitats Directive had not yet been adopted and was therefore not in force.

The project for the modification of *El Cabril* facility was subject to an environmental impact procedure, including a public consultation, and the related EIS was issued by Resolution of the competent authorities of 26 December of 2005². This project consisted of the construction of four additional cells for the disposal of very-low activity radioactive waste, providing for an additional capacity of 130,000m³. It also included the construction of access roads, a management building and other additional installations. According to the EIS, the Spanish authorities concluded that this modification would not imply a significant increase of the possible radiological effects of the installation on the environment.

The EIS recognised the proximity of the project to the following Natura 2000 sites: Site of Community Importance (SCI) ES6130007 «Guadiato-Bembézar» and the SCI and Special Protection Area (SPA) ES0000050 «Sierra de Hornachuelos». The Spanish authorities had concluded, before granting the authorisation for the project of modification, that it would not significantly affect the values of Natura 2000 sites designated under the Habitats or the Birds³ Directives.

Conclusion

In light of the above, the Commission considers that the petition does not give grounds for any action to be taken by the Commission in the present case.

¹ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, OJ L 206, 22.7.1992, p. 7–50

² Resolución de la Secretaría General para la Prevención de la Contaminación y el Cambio Climático de 26 de diciembre de 2005 se ha formulado Declaración de Impacto Ambiental sobre el proyecto de modificación de la instalación de almacenamiento de residuos radiactivos sólidos de Sierra Albarrana, Córdoba (Centro de Almacenamiento de El Cabril)

³ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, OJ L 20, 26.1.2010, p. 7–25