

Questionnaire for the report of SPAIN on the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context in the period 2013–2015

Information on the focal point for the Convention

1. Name and contact information:

Mr. Francisco MUÑOZ GARCÍA
Subdirector General de Evaluación Ambiental
Ministerio de Agricultura, Alimentación y Medio Ambiente
Plaza de San Juan de la Cruz s/n
SP - 28071 MADRID
Telephone: +34 91 597 6072 or +34 91 597 6332
Fax: +34 91 597 5816
E-mail: FMunoz@magrama.es

cc: Ms Maria Angeles JIMENEZ REDONDO
Consejera técnica
Subdirección General de Evaluación Ambiental
Ministerio de Agricultura, Alimentación y Medio Ambiente
Telephone: +34 91 597 630
E-mail: MJRedondo@magrama.es

cc: Ms. L. Aurora HERNANDO GARCINUÑO
Directora de Programa
Subdirección General de Evaluación Ambiental
Ministerio de Agricultura, Alimentación y Medio Ambiente
Telephone: +34 91 597 6118
E-mail: Lahernando@magrama.es

Information on the point of contact for the Convention

2. Name and contact information (if different from above):

Mr. Alejandro Abellán García de Diego
Director General de Coordinación de Políticas Comunes y Asuntos Generales de la Unión Europea
Ministerio de Asuntos Exteriores y Cooperación
C/ Serrano Galvache, 26
28033 MADRID

Information on the person responsible for preparing the report

3. Country: **SPAIN**
4. Surname:
5. Forename:
6. Institution:
7. Postal address:
8. E-mail address:
9. Telephone number:

10. Fax number:
11. Date on which report was completed:

Part one

Current legal and administrative framework for the implementation of the Convention

In this part, please provide the information requested, or revise any information relative to the previous report. Describe the legal, administrative and other measures taken in your country to implement the provisions of the Convention. This part should describe the framework for your country's implementation, and not experience in the application of the Convention.

Please do not reproduce the text of the legislation itself but summarize and explicitly refer to the relevant provisions transposing the Convention text (e.g., EIA Law of the Republic of ..., art. 5, para. 3, of Government Resolution No. ..., para. ... item...)

Article 1

Definitions

I.1. Is the definition of impact for the purpose of the Convention the same in your legislation as in article 1?

(a) Yes

(b) Yes, with some differences (please provide details):

(c) No (please provide the definition): [There is not definition of impact as such, but the annex VI point 8 of the Law 21/2013, of 9 December, on environmental assessment \(Spanish Official Diary of 11/12/2013: <https://www.boe.es/buscar/act.php?id=BOE-A-2013-12913>\) describes technical concepts and includes different impact and effects of the project o proposed activity might cause in the environment.](#)

(d) There are no definitions of impact in the legislation

Your comments:

I.2. Is the definition of transboundary impact for the purpose of the Convention the same in your legislation as in article 1? Please specify each below.

(a) Yes

(b) Yes, with some differences (please provide details):

(c) No (please provide the definition): [There is no definition but are applicable all the technical concepts referred to in annex VI point 8 of the Law on Environmental Assessment.](#)

(d) There are no definitions of transboundary impact in the legislation

Your comments:

I.3. Please specify how major change is defined in your national legislation:

[Any modification of proposed activity when such modification cause a significant increase of the emissions to the atmosphere, of the discharge on the river o coast, of the generation of waste, of the use of natural resources, effects on Natura 2000 site and effects to cultural heritage.](#)

I.4. How do you identify the public concerned? Please specify (more than one option may apply):

- (a) Based on the geographical location of the proposed project
- (b) By making the information available to all members of the public and letting them identify themselves as the public concerned
- (c) By other means (please specify):
Your comments:

Article 2 General provisions

I.5. Provide legislative, regulatory, administrative and other measures taken in your country to implement the provisions of the Convention (art. 2, para. 2):

- (a) Law on EIA: [Law 21/2013, of 9 December, on environmental assessment \(Spanish Official Diary of 11/12/2013: https://www.boe.es/buscar/act.php?id=BOE-A-2013-12913\)](https://www.boe.es/buscar/act.php?id=BOE-A-2013-12913).
- (b) EIA provisions are transposed into another law(s) (please specify):
- (c) Regulation (please indicate number/year/name):
- (d) Administrative (please indicate number/year/name):
- (e) Other (please specify):

Your comments:

I.6. Please describe any differences between the list of activities in your national legislation and appendix I to the Convention, if any:

- (a) There is no difference, all activities are transposed in the national legislation as is
- (b) It differs slightly (please specify):

Your comments:

[The Convention is applicable per se without need of transposition into a Law or other legal instrument.](#)

I.7. Identify the competent authority/authorities responsible for carrying out the EIA procedure in your country (please specify):

- (a) There are different authorities at national, regional, local levels
- (b) They are different for domestic and transboundary procedures
- (c) Please name the responsible authority/authorities:
- (d) There is no single authority responsible for the entire EIA procedure:

Your comments:

I.8. Is there an authority in your country that collects information on all the transboundary EIA cases? If so, please name it:

- (a) No
- (b) Yes (please specify): [Ministry of Foreign Affairs and Cooperation participates in all the EIA with transboundary impacts.](#)

Your comments:

I.9. How does your country, as Party of origin and as affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to the Party of origin's public, as required in article 2, paragraph 6 (please explain):

In the projects in which Portugal is the affected Party (i.e. the majority) a Collaboration Protocol exists between both countries, establishing that the affected Party is responsible for consulting the public concerned in its country. In all other cases, a decision is made on a case-by-case basis

Article 3 Notification

I.10. As Party of origin, when do you notify the affected Party (art. 3, para. 1)? Please specify:

- (a) During scoping
- (b) When the EIA report has been prepared and the domestic procedure started
- (c) After finishing the domestic procedure
- (d) At other times (please specify):

Your comments: Scoping phase is voluntary. If the developer chooses this phase, the notification is made during scoping, in other case, it is made when the domestic procedure started.

I.11. Please define the format of notification:

- (a) It is the format as decided by the first meeting of the Parties in its decision I/4 (ECE/MP.EIA/2, annex IV, appendix)
- (b) The country has its own format (please attach a copy)
- (c) No official format used

Your comments: In general, the format as decided by the first meeting of the Parties in its decision I/4 is not used, but the information provided is similar

I.12. As a Party of origin, what information do you include in the notification (art. 3, para. 2)? Please specify (more than one options may apply):

- (a) The information required by article 3, paragraph 2
- (b) The information required by article 3, paragraph 5
- (c) Additional information (please specify):

Your comments:

I.13. As a Party of origin, does your national legislation contain any provision on receiving a response to the notification from the affected Party in a reasonable time frame (art. 3, para. 3, "within the time specified in the notification")? Please specify:

- (a) National legislation does not cover the time frame
- (b) Yes, it is indicated in the national legislation (please indicate the time frame):
- (c) It is determined and agreed with each affected Party case by case in the beginning of the transboundary consultations (please indicate the average length in weeks):

Your comments:

Please specify the consequence if a notified affected Party does not comply with the time frame, and the possibility of extending a deadline:

In the projects in which Portugal is the affected party (i.e. the majority) a Collaboration Protocol exists between both countries, providing for a response time limit of 30 days. In all other cases, normally the same time limit is also established in a case-by-case basis, but it is not established in any legal provision.

In general, there is some flexibility if the affected Party does not comply with the time limit.

I.14. How do you inform the public and authorities of the affected Party (art. 3, para 8)? Please specify:

(a) By informing the point of contact to the Convention listed on the Convention website¹

(b) Other (please specify): **In the projects in which Portugal is the affected Party, means of public consultation depend on the affected Party. In all other cases, a decision is made on a case-by-case basis.**

Your comments:

I.15. On what basis is the decision made to participate (or not) in the transboundary EIA procedure as affected Party (art. 3, para. 3)? Please specify:

(a) Notified ministry/authority of the affected Party responsible for EIA decides on its own based on the documentation provided by Party of origin

(b) Based on the opinions of the competent authorities of the affected Party

(c) Based on the opinions of the competent authorities and that of public of the affected Party

(d) Other (please specify):

Your comments:

The Ministry of Agriculture, Food and Environment decides whether it wishes to participate, having analysed the documentation submitted on the characteristics of the project and the potential impacts.

In some cases, further information may be requested from the Party of origin. Also, it may be possible to consult any Spanish affected authority.

The decision is sent to the affected Party by a letter through the Ministry of Foreign Affairs and Cooperation. r

I.16. If the affected Party has indicated that it intends to participate in the EIA procedure, how are the details for such participation agreed, including the time frame for consultations and the deadline for commenting (art. 5)? Please specify:

(a) Following the rules and procedures of the Party of origin

(b) Following the rules and procedures of the affected Party

(c) Other (please specify):

Your comments:

Article 4

Preparation of the environmental impact assessment documentation

I.17. How do you ensure sufficient quality of the EIA documentation as Party of origin? Please specify:

(a) The competent authority checks the information provided and ensures it includes all information required under appendix II as a minimum before making it available for comments

¹ List available from http://www.unece.org/env/eia/points_of_contact.htm.

- (b) By using quality checklists
- (c) There are no specific procedures or mechanisms
- (d) Other (please specify):

Your comments:

I.18. How do you determine the relevant information to be included in the EIA documentation in accordance with article 4, paragraph 1? Please specify (more than one option may apply):

- (a) By using appendix II
- (b) By using the comments received from the authorities concerned during the scoping phase, if applicable
- (c) By using the comments from members of the public during the scoping phase, if applicable
- (d) As determined by the proponent based on its own expertise
- (e) By using other means (please specify):

Your comments:

I.19. How do you determine “reasonable alternatives” in accordance with appendix II, paragraph (b)?

- (a) On a case-by-case basis
- (b) As defined in the national legislation (please specify):
- (c) Other (please specify):

Your comments:

In general, the developer presents its alternatives. Other alternatives may be suggested during the process to determine the content of the EIA documentation

Article 5

Consultations on the basis of the environmental impact assessment documentation

(a) Public participation

I.20. How can the public concerned express its opinion on the EIA documentation of the proposed project (art. 5)? Please specify (more than one option may apply):

As Party of origin

- (a) By sending comments to the competent authority/focal point
- (b) By taking part in a public hearing
- (c) Other (please specify):

As affected Party

- (d) By sending comments to the competent authority/focal point
- (e) By taking part in a public hearing
- (f) Other (please specify):

Your comments:

I.21. Please indicate whether your national EIA legislation requires the organization of a public hearing on the territory of the affected Party in cases where your country is the country of origin:

- (a) Yes
- (b) No

Your comments:

[It is up to the developer to organize such a public hearing](#)

I.22. Please indicate whether your national EIA legislation requires the organization of public hearings in cases where your country is the affected Party:

- (a) Yes
- (b) No

Your comments:

[It is up to the developer to organize such a public hearing](#)

(b) Consultations

I.23. Does your national EIA legislation have any provision on the organization of transboundary consultations (expert, joint bodies, etc.) between the authorities of the concerned Parties? Please specify:

- (a) Yes, it is obligatory
- (b) No, it does not have any provision on that
- (c) It is optional (please specify): [Spain has signed a collaboration Protocol with Portugal](#)

Your comments:

**Article 6
Final decision**

I.24. Please indicate all points below that are covered in a final decision related to the implementation of the planned activity (art. 6, para. 1):

- (a) Conclusions of the EIA documentation
- (b) Comments received in accordance with article 3, paragraph 8, and article 4, paragraph 2
- (c) Outcome of the consultations as referred to in article 5
- (d) Outcomes of the transboundary consultations
- (e) Comments received from the affected Party
- (f) Mitigation measures
- (g) Other (please specify):

I.25. Are the comments of the authorities and the public of the affected Party and the outcome of the consultations taken into consideration in the same way as the comments from the authorities and the public in your country (art. 6, para. 1):

- (a) Yes

(b) No

Your comments:

I.26. Is there any regulation in the national legislation of your country that ensures the implementation of the provisions of article 6, paragraph 3?:

(a) No

(b) Yes (please specify):

Your comments:

I.27. Do all activities listed in appendix I (items 1-22) require a final decision to authorize or undertake such an activity?:

(a) Yes

(b) No (please specify those that do not):

Your comments:

I.28. For each type of activity listed in appendix I that does require a final decision, please indicate the legal requirements in your country that identify what is regarded as the “final decision” to authorize or undertake such an activity (art. 6 in conjunction with art. 2, para. 3), and the term used in the national legislation to indicate the final decision in the original language:

The authorization of the project by de competent authority “autorización del órgano sustantivo”

Your comments:

Article 7

Post-project analysis

I.29. Is there any provision regarding post-project analysis in your national EIA legislation (art. 7, para. 1)?:

(a) No

(b) Yes (please specify the main steps to be taken and how the results of it are communicated):

Once the EIA procedure has concluded the Ministry of Agriculture, Food and Environment send a memo to the affected Party with all measures foreseen regarding post project analysis.

Your comments:

Article 8

Bilateral and multilateral cooperation

(a) Agreements

I.30. Does your country have any bilateral or multilateral agreements based on the Convention (art. 8, appendix VI)?:

(a) No

(b) Yes Please specify with which countries: [Spain has a Collaboration Protocol with Portugal](#)

If publicly available, please also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian. [It is not translated](#)

I.31. What issues do these bilateral agreements cover (appendix VI)? (more than one option may apply):

- (a) Specific conditions of the subregion concerned
- (b) Institutional, administrative and other arrangements
- (c) Harmonization of the Parties' policies and measures
- (d) Developing, improving, and/or harmonizing methods for the identification, measurement, prediction and assessment of impacts, and for post-project analysis
- (e) Developing and/or improving methods and programmes for the collection, analysis, storage and timely dissemination of comparable data regarding environmental quality in order to provide input into the EIA
- (f) Establishment of threshold levels and more specified criteria for defining the significance of transboundary impacts related to the location, nature or size of proposed activities
- (g) Undertaking joint EIA, development of joint monitoring programmes, intercalibration of monitoring devices and harmonization of methodologies
- (h) Other, please specify:

Your comments:

(b) Procedural steps required by the national legislation

I.32. Please describe the steps required in your national legislation for a transboundary EIA procedure:

(a) When EIA in a transboundary context is part of a domestic EIA procedure:

[The Law of Environmental Assessment has provisions related to transboundary consultations \(articles 49 and 50\). When the project may have transboundary environmental impacts these provisions are applicable, whatever the project is listed in annex I o II of the Law on Environmental Assessment.](#)

(b) When EIA in a transboundary context is a separate procedure (please provide of how this procedure links to the domestic procedure and whether the steps are different):

Alternatively, this question can be answered or supported by providing a schematic flowchart showing these steps.

Your comments:

I.33. Does your country have special provisions or informal arrangements concerning transboundary EIA procedures for joint cross-border projects (e.g., roads, pipelines)?:

- (a) No
- (b) Yes (please specify):
 - (i) Special provisions:
 - (ii) Informal arrangements:

Your comments:

I.34. Does your country have special provisions or informal arrangements concerning transboundary EIA procedures for nuclear power plants (NPPs)?:

(a) No

(b) Yes (please specify):

(i) Special provisions:

(ii) Informal arrangements:

Your comments:

Part two

Practical application during the period 2013–2015

Please report on your country's practical experiences in applying the Convention (not your country's procedures described in part one), whether as Party of origin or affected Party. The focus here is on identifying good practices as well as difficulties Parties have encountered in applying the Convention in practice. The goal is to enable Parties to share solutions. Parties should therefore provide appropriate examples highlighting application of the Convention and innovative approaches to improve its application.

II.1. Does your country object to the information on transboundary EIA procedures that you provide in this section being compiled and made available on the website of the Convention? Please specify (indicate "yes" if you object):

(a) Yes

(b) No

Your comments:

1. Experience in the transboundary environmental impact assessment procedure during the period 2013–2015

Cases during the period 2013–2015

II.2. If your country's national administration has a record of transboundary EIA procedures that were under way during the reporting period, in which your country was Party of origin or affected Party, please list them in the tables II.2 (a) and II.2 (b) below (adding additional rows as needed).

Table II.2 (a)

Transboundary EIA procedures: As Party of origin

Name of case	Starting date (date notification sent)	Length of the main steps in months		Final decision (date of issuing, if information is available)
		Submission of the environmental report	Transboundary consultations (expert), if any Public participation, including public hearing, if any	
1.				
2.				
3.				
4.				
...				

Your comments:

Table II.2 (a)

Transboundary EIA procedures: As affected Party

Name of case	Starting date (date notification sent)	Length of the main steps in months			Final decision (date of issuing, if information is available)
		Submission of the environmental report	Transboundary consultations (expert), if any	Public participation, including public hearing, if any	
1. <i>EIXO DA RNT ENTRE VILA DO CONDE, VILA FRIA B E A REDE ELECTRICA DE ESPANHA, A 400 KV, PORTUGAL</i>	<i>28/02/14</i>			<i>09/09/14</i>	<i>23/12/14. The developer desisted</i>
2.					
3.					
4.					
...					

Your comments:

Please share with other Parties your country's experience of using the Convention in practice. In response to each of the questions below, either provide one or two practical examples or describe your country's general experience. You might also include examples of lessons learned in order to help others.

II.3. Translation is not addressed in the Convention. How has your country addressed the question of translation? What difficulties has your country as Party of origin and affected Party experienced relating to translation and interpretation, and what solutions has your country applied? (Please specify, among others, the parts and type of the documentation translated, language, costs, etc.):

(a) As Party of origin: *The developers are required to include an specific chapter in the environmental impact assessment report about transboundary effects which has to be translated into the Party's affected language.*

(b) As affected Party:

II.4. Describe any difficulties that your country has encountered during transboundary public participation (expert consultation, public hearing, etc.), including on issues of timing, language and the need for additional information: *Issues of timing.*

II.5. Does your country have successful examples of organizing transboundary EIA procedures for joint cross-border projects or that of an NPP?:

(a) Yes

(b) No

II.6. If you answered yes to question II.5, please provide information on your country's experiences describing, for example, means of cooperation (e.g., contact points, joint bodies, bilateral agreements, special and common provisions, etc.), institutional arrangements, and how practical matters are dealt with (e.g., translation, interpretation, transmission of documents, etc.):

- (a) For joint cross-border projects:
- (b) For NPPs:

II.7. Name examples of good practice cases, whether complete cases or good practice elements (e.g., notification, consultation or public participation) within cases:

II.8. Would your country like to introduce a case in the form of a Convention "case study fact sheet"?

- (a) No
- (b) Yes (please indicate which cases):

II.9. Has your country carried out post-project analyses in the period 2013–2015:

- (a) No
- (b) Yes (please indicate which projects, along with the challenges in implementation and any lessons learned):

2. Experience in using the guidance in 2013–2015

II.10. Has your country used in practice the following guidance, adopted by the Meeting of the Parties and available online?:

(a) Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context (ECE/MP.EIA/7):

- No
- Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

(b) Guidance on subregional cooperation (ECE/MP.EIA/6, annex V, appendix):

- No
- Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

(c) Guidance on the Practical Application of the Espoo Convention (ECE/MP.EIA/8):

- No
- Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

3. Clarity of the Convention

II.11. Has your country had difficulties implementing the procedures defined in the Convention, either as Party of origin or as affected Party, because of a lack of clarity of the provisions?:

No

Yes (please indicate which provisions and how they are unclear):

4. Suggested improvements to the report

II.12 Please provide suggestions for how this report may be improved.