

IIDMA wins court case against Meirama coal plant landfill's environmental permit

Madrid, November 25, 2020.- The Supreme Court of Galicia (Spain) has ruled in favour of the [Instituto Internacional de Derecho y Medio Ambiente \(IIDMA\)](#) upholding a judicial review filed in June 2019 by the NGO against the Administration of Autonomous Community of Galicia. The judicial review was based on an infringement of Spanish legislation on environmental impact assessment (EIA) during the authorization of the substantial change of the environmental permit and the granting of the Environmental Impact Statement (EIS) related to the extension project of the non-hazardous waste landfill "As Encrobas", belonging to Meirama coal-fired power plant and owned by the company Naturgy Energy Group, S.A. In its Judgment of 26 October 2020, the Court has declared null and void the environmental permit and the EIS of the landfill site as both fail to comply with the EIA requirements established in [Spanish Law 21/2013 on environmental assessment](#).

In June 2019, IIDMA filed a judicial review challenging the rejection by the Ministry of Environment and Land Planning of the regional Government of Galicia of a prior administrative review filed by the NGO in 2018 against a resolution from the Directorate General for Environmental Quality and Climate Change of Galicia authorizing the substantial change of As Encrobas landfill's environmental permit and granting the EIS of the landfill extension project.

The substantial change of the environmental permit consisted on the execution of a project aimed to extend "As Encrobas" landfill site, which receives non-hazardous waste resulting from the activity of Meirama coal plant. The extension of the landfill – through the construction and exploitation of two new discharge vessels divided into 20 cells each – was required due to an increase in "gypsum" generation resulting from the desulphurization system installed in the coal plant in order to be compliant with the emission limit values required under EU law ([Directive 2010/75/EU on industrial emissions](#)). Compliance with such limit values were mandatory in case Meirama coal plant continue operating beyond last 30 June 2020. However, this plant ended its operation in June 2020. As legally required, the landfill extension project was subject to an ordinary EIA procedure.

In its lawsuit, IIDMA asked for the annulment of the challenged resolution based on an infringement of the EIA procedure set in Law 21/2013 on environmental assessment, since the project EIS and the permitting decision were granted within the same administrative resolution and simultaneously on the same day. In addition, IIDMA claimed that the EIS was published at the Official Journal of Galicia on the same day in which the permitting decision modifying the environmental permit was published, having omitted the corresponding public participation procedure required after the publication of the EIS.

In particular, as recognised by relevant case-law of the Spanish Supreme Court, IIDMA argued that the EIS – which ends the ordinary EIA procedure – must be granted by the Administration of Galicia prior to the date of adoption of the resolution modifying the environmental permit. As ruled by the Galician Court, the EIS must be integrated in a prior and independent report different to the permitting decision instead of as an Annex of such resolution, as happened in this case. According to case-law of the State Supreme Court, granting the EIS in advance is crucial because *“only in this way the Administration is able to take into consideration and weight the environmental values existing in the case before the adoption of the corresponding resolution”*.

Furthermore, the EIS must be published before the publication of the permitting decision and not simultaneously and on the same day. However, since both proceedings were granted and published on the same date, the extension project of “As Encrobas” landfill was authorized by the regional Administration of Galicia without having previously taken into consideration the potential environmental impacts resulting from the substantial change of the landfill’s environmental permit.

“The decision of the Supreme Court of Galicia underpins the solid case-law held by the State Supreme Court by recognizing the disabling nature of the permitting procedure when, despite being an obligation within the Spanish legal order, requirements of advance granting and publicity of the EIS are not fulfilled. We cannot forget that the EIS is an instrumental procedure different from the environmental permit, and essential in nature as it is the one that states the environmental effects resulting from a certain project and whether or not it should be authorized”, says **Alba Iranzo, Lawyer at IIDMA**.

In its claim IIDMA also complained about the lack of a public participation procedure required after the publication of the IES, which should have been undertaken before the Administration adopted the permitting decision modifying the environmental permit. The referred case-law recalls that *“in these procedures concerned parties must be entitled to participate and make the corresponding comments. Participation and information are essential pillars of the environmental impact assessment procedure, and the granting of the environmental impact statement is a significant phase, so that if its final text is not subject to information nor participation both principles are disregarded”*.

After declaring null and void the challenged resolution based on a violation of the EIA requirements, the Supreme Court of Galicia found not necessary to assess the legality of the second ground claimed by IIDMA, and ordered the defendant Administration of Galicia to bear the court costs resulting in an amount up to 1,500 euros”.

“At IIDMA we welcome this ruling from the Supreme Court of Galicia which shows that the respect to EIA requirements, including public participation, is fundamental to environmental protection. Consequently, we expect situations like this not to happen again in the future. This ruling shows that the rule of law is an essential value for the protection of the environment and our Planet, which is the core of our work at IIDMA”, declares **Ana Barreira, Director of IIDMA**.

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IDMA is a non-profit organization founded in 1996 in Spain with the purpose of contributing to the protection of the environment. Our goal is to achieve sustainable development through research, application and enforcement of Law from an international and multidisciplinary perspective. Since 1998, the IIDMA has been an accredited organization before the United Nations Environment Assembly of UNEP. In 2001 it was declared of public utility. It belongs to the [Europe Beyond Coal](#) campaign.