

RECENT ENVIRONMENTAL DEVELOPMENTS WITH EUROPEAN DIMENSION: SPAIN

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The main environmental law developments that have taken place in Spain since the last meeting of the Avosetta network in January may be summarised as follows:

1.- LEGISLATION

The most important piece of horizontal environmental legislation that has been promulgated during this period is the Act 16/2002, of July the first, on IPPC (official gazette of July the 2nd, 2002, see the electronic version in [http//www.boe.es](http://www.boe.es)).

The “european dimension” of this norm consists in the fact that it represents the incorporation of the IPPC directive into the Spanish legal system. It is a late incorporation (see *infra*), and a controversial one from the internal perspective, since some Autonomous Communities had already approved some legislation in this domain (example: Catalonia). In overall terms, it is a quite faithful transposition of the directive. The main responsibilities in IPPC are allocated in the hands of the Autonomous Communities.

2.- EU CASE-LAW: COMPLIANCE WITH EC ENVIRONMENTAL LAW

During the present incomplete year, Spain has already been condemned by the ECJ in several infringement procedures:

1) By its judgement of March the 7th, 2002 (Case C-29/01), the ECJ condemned Spain for not transposing in due time Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control

2) Judgement of 13 June 2002 (Case C-474/99): insatisfactory transposition of Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment. The problems concerns some projects listed in annex II of the Directive. This problem does not exist anymore, in the light of the pieces of legislation approved of this subject in 2001 (see my previous contributions)

3) Judgement of 1 July 2002 (Case C-139/00): failure to duly implement Directive 89/369/EEC (atmospheric pollution) in relation with the Municipal waste incineration plants on the island of La Palma.

4) Judgement of October the 3rd., 2002 (Case C-47/01) : infringement in the domain of Directive 96/59/EC, on the disposal of polychlorinated biphenyls and

polychlorinated terphenyls (PCB/PCT). Spain had failed to draw up, within the prescribed period, a summary of the inventories of equipment with PCB and a plan for the decontamination and/or disposal of those inventoried equipment. Collection and disposal operations of equipments were also unsatisfactory.

3. OTHER DEVELOPMENTS: THE SPANISH PRESIDENCY OF THE COUNCIL

During the first semester of the present year, Spain discharged the presidency of the Council of the European Union (see the official website: <http://www.ue2002.es>). From the exclusive perspective of environmental affairs, an urgent appraisal of this presidency, may be summarised as follows:

1. For what concerns the presidency's priorities, the Spanish presidency set the following ones: a Directive on environmental liability; a soil policy; the preparation of the Barcelona European Council; the preparation for the World Summit on sustainable Development in Johannesburg; Biological Diversity (ratification of the Cartagena Protocol on Biosafety); focus on Climate Change: the ratification of the Kyoto Protocol, the framing of an European Climate Change Programme, and a Directive on emissions trading.
2. Among all these objectives, the most important one was getting ratification of the Kyoto Protocol. This goal was achieved by May the 31, when the fifteen member states and the Community deposited their instruments of ratification. This accomplishment received an important media coverage, and was largely publicised as a *success of Spain*. However, this "external" *championship* of the Spanish environmental authorities is far from been mirrored by the "internal" situation in the domain of climate change. According to the figures that were circulated in March by Worldwatch and other NOGs, greenhouse emissions in Spain have increased 29% between 1990 and 2000. If we consider that, under the Kyoto-UE common position, Spain is allowed to increase its greenhouse emission in 15% for the period 2008-2012 (taking 1990 as the basis year) that figure represents already a deviation of almost 100% above the national reduction target. Apart from the Ministry itself, nobody seems to believe that Spain will be in a position to meet that reduction target.
3. The performance of Spain during the presidency is even poorer if we keep in mind the abovementioned judgements of the Court of Justice.