Parallel Report on SPAIN

submitted by the

Instituto Internacional de Derecho y Medio Ambiente (IIDMA) and

the **Center for International Environmental Law (CIEL)**

with support from

Client Earth and the

Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)

Committee on Economic, Social and Cultural Rights

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This report highlights the adverse impacts of Spain's energy and climate policies on the economic, social and cultural rights of communities in Spain and beyond the territory of the country. Climate change and air pollution are among the main threats to economic, social and cultural rights as they threaten to undermine the right to health (CESCR article 12), the right not to be deprived of one's own means of subsistence (art. 1), the right to an adequate standard of living (art. 11) and the right to water (arts. 11 and 12).

Scientific studies have found that atmospheric pollution from coal-fired power plants in Spain has a significant impact on the health of populations both in the country and outside its national territory. These power plants are responsible for thousands of premature deaths and illnesses and contribute significantly to climate change, thereby further aggravating climate-induced human rights impacts. The Spanish government has granted special derogations exempting these facilities from mandatory standards limiting air pollution.

We urge the CESCR to recommend that the State party carry out an assessment of the impact of air pollution from coal-fired power plants on health and on the climate in Spain and beyond and that it design a strategy to remedy these impacts and guarantee the effective enforcement of the stricter EU pollution standards.

Though Spain is a party to the UN Framework Convention on Climate Change, to the Kyoto Protocol and to the Paris Climate Agreement, Spain does not have comprehensive climate legislation ensuring a reduction of emissions from all relevant economic sectors or a long-term strategy to decrease its emissions. The emissions of Spain remain much higher than those in 1990 (the reference year used under the UNFCCC). While emissions began to decrease in 2008, those reductions have halted since 2013. As a consequence, the country is not on the path to reduce emissions in line with the objectives of the Paris Agreement and contributes to the dangerous increase in greenhouse gas concentrations in the atmosphere.

To ensure that Spain meets its obligations under the ICESCR, the CESCR should recommend that the State adopt a legally-binding climate change framework with time-bound emission reductions targets, including targets for 2030 and 2050 that are at least in line with the objectives contained in the Paris Agreement, as well as develop a comprehensive strategy to ensure that all economic sectors implement this framework.

1. Submitting organisations

This Parallel Report is submitted to the Committee on Economic, Social and Cultural Rights by the following organisations:

Instituto Internacional de Derecho y Medio Ambiente (IIDMA - International Institute for Law and the Environment)
IIDMA is a Spanish environmental law non-profit organization founded in 1997 to contribute to environmental protection and sustainable development through the research, development, implementation and enforcement of the Law at all levels. IIDMA puts the law at the service of the environment using the rule of law tools. Since 2013, IIDMA is working to impel energy transition.

Center for International Environmental Law (CIEL)
Since 1989, the Center for International Environmental Law (CIEL) has used the power of law to protect the environment, promote human rights and ensure a just and sustainable society.

2. Linkages between Climate Change, Atmospheric Pollution and Economic, Social and Cultural Rights protected under the Covenant

Air Pollution

Environmental pollution is among the largest causes of premature death, as it is involved in nine million premature deaths annually (about 16% of all deaths).[1] Atmospheric air pollution alone is a responsible for over 3 million premature deaths a year globally.[2]

The Committee has also stressed that the Covenant requires States to prevent and remedy to air pollution that interferes with economic, social and cultural rights such as the right to adequate housing and to the highest attainable standard of health.[3] The Committee emphasized that this obligation requires states to "formulate and implement national policies aimed at reducing and eliminating pollution of air" and that "violations of the obligation to protect follow from the failure of a State to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to health by third parties".[4]

[1] Landrigan, P. J., Fuller, R., Acosta, N. J., Adeyi, O., Arnold, R., Baldé, A. B., ... & Chiles, T. (2017). The Lancet Commission on pollution and health. *The Lancet*.
[2] Lelieveld, J., Evans, J. S., Fnais, M., Giannadaki, D., & Pozzer, A. (2015). The contribution of outdoor air pollution sources to premature mortality on a global scale. *Nature*, *525*(7569), 367.
[3] CESCR General comment No. 4: The right to adequate housing
(art. 11 (1) of the Covenant) and General Comment No. 14 (2000) The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)
[4] GC 14, pages 11 and 15.

Through the State reporting procedure, the Committee has expressed concerns regarding the adverse impacts of air pollution on economic, social and cultural rights in several parties to the Covenant.[5] To ensure compliance with States' obligations under the Covenant, the CESCR recommended that States "implement[…] and monitor[…] measures to mitigate environmental pollution",[6] "hold administrative authorities and private companies accountable for contravening environmental legislation",[7] "adopt effective measures, including engagement with residents of areas neighbouring industrial sites and civil society organizations, with a view to finding solutions to their exposure to air pollution",[8] and " allocate more resources in this regard and to strictly enforce its environmental legislation".[9] The Committee also requested that a State party "provide[s] in its next periodic report information on remedies available and redress afforded to those who have contracted illnesses due to environmental pollution (art. 12)".[10]

Climate Change

The adverse impacts of climate change constitute one of the most significant global threats for the enjoyment of human rights – especially the rights protected under the International Covenant on Economic, Social and Cultural Rights (ICESCR). In his 2016 report, the Special Rapporteur on human rights and the environment stated that "climate change threatens the full enjoyment of a wide range of rights, including the rights to life, health, water, food, housing, development and self-determination".[11] The magnitude of these impacts will keep increasing as temperatures continue to rise. These foreseeable impacts trigger human rights obligations and responsibility among all duty bearers.[12] The ICESCR requires States to take affirmative action to protect rights. Failure to prevent foreseeable human rights harm caused by climate change, including mobilizing maximum available resources in an effort to do so, constitutes a breach of this obligation.[13] Governments must therefore ensure that they reduce emissions of greenhouse gases in a manner that prevents the most dangerous levels of temperature increase and avoids the very serious threats to economic, social and cultural rights.

[5] CESCR concluding observations to Kazakhstan, E/C.12/KAZ/CO/1 (CESCR, 2010), CESCR concluding observations to Mongolia, E/C.12/MNG/CO/4 (CESCR, 2015), CESCR concluding observations to Thailand, E/C.12/THA/CO/1 (CESCR, 2015)
[6] CESCR concluding observations to China, E/C.12/CHN/CO/2 (CESCR, 2014)
[7] Ibid.
[8] CESCR concluding observations to Kuwait, E/C.12/KWT/CO/2 (CESCR, 2013)
[9] CESCR concluding observations to Kazakhstan, E/C.12/KAZ/CO/1 (CESCR, 2010)
[10] Ibid.
[11] A/HRC/31/52 - Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, February 2016.ibid.
[12] Human Rights Council, Analytical Study at para 32.
[13] *ibid*. at para 48.

The Committee has recognized in many instances the importance for States to take actions to mitigate and adapt to climate change in order to meet their obligations under the Covenant.[14]

Through the State reporting procedure, the Committee has expressed concerns about the carbon dioxide emissions of an individual party, despite the State party's commitments as a developed country under the United Nations Framework Convention on Climate Change and the Kyoto Protocol, as well as its nationally determined contribution under the Paris Agreement.[15] Furthermore, the committee has also recommended that each individual State party "increase its efforts to reduce greenhouse gas emissions and set national targets with time-bound benchmarks",[16] "pursue alternative and renewable energy production"[17] and "review [their] position in support of coal mines and coal exports."[18]

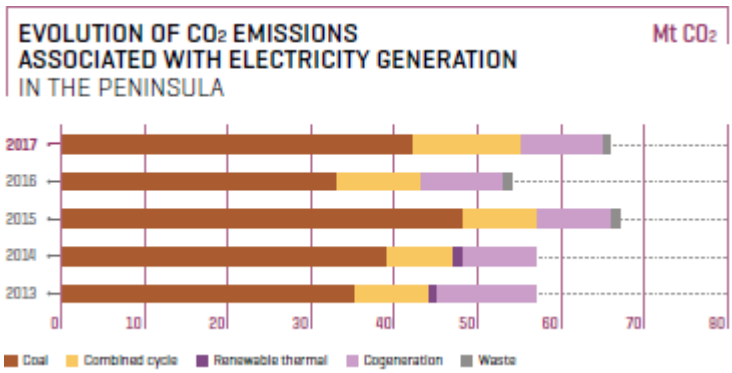
3. Adverse impacts of coal-fired power plants in Spain on economic, social and cultural rights in Spain and in other countries

Power generation in Spain still relies heavily on coal. During the period from 2013 to 2015, this fuel was the only source in the peninsular system that registered continuous growth of net generation and coverage of the annual electricity demand. In 2017 coal was still the third source of electricity in the Spanish peninsular system covering 17% of demand.

Coal is the largest source of CO_2 emissions in the entire power sector. In 2015 GHG emissions were 335.6 M tons CO_2-eq. According to data from the Spanish Ministry of Agriculture, Fisheries, Food and the Environment,[19] more than ¾ of those emissions were generated by energy processing industries and, within it, 22% was attributed to electricity generation[20] while transport generated 25% of the total emissions.

[14] See for instance the CESCR General Comment No. 15 (2002) on the right to water.

[15] CESCR Concluding Observations on Australia, E/C.12/AUS/CO/5 (CESCR, 2017)
[16] CESCR Concluding Observations on Russia E/C.12/RUS/CO/6 (CESCR, 2017)
[17] CESCR Concluding Observations on Canada, E/C.12/CAN/CO/6 (CESCR, 2016) and CESCR Concluding Observations on Australia, E/C.12/AUS/CO/5 (CESCR, 2017)
[18] CESCR Concluding Observations on Australia, E/C.12/AUS/CO/5 (CESCR, 2017)
[19] *Inventario Nacional de Gases de Efecto Invernadero de España: Sumario Edición 1990-2015,* available at: http://www.mapama.gob.es/es/calidad-y-evaluacion-ambiental/temas/sistema-espanol-de-inventario-sei-/documentoresumen-geiespana-serie1990-2015_tcm7-453238.pdf.
[20] According to data from the European Environmental Protection Agency and the EU ETS Transaction Log, 17% of that 22% derived from electricity generation is attributed to emissions from coal plants.



Source: Red Eléctrica Española (Spanish Transmission System Operator, 2017 Report[21])

The severe drought that Spain suffered in 2017 was one of the causes of the increase of CO_2 emissions from the coal sector during that year due to the low water levels stored in hydropower dams.

The high level of CO_2 emissions from coal plants interferes with the enjoyment of the right of everyone to an adequate standard of living and to the continuous improvement of living conditions enshrined in Article 11 of the ICESCR. In addition, given the vulnerability of Spain to the impacts of climate change, those emissions affect the precipitation patterns that impact the right to water that is included in articles 11-12 of the Covenant.

In addition, the burning of coal generates other GHGs and pollutants such as particulate matter (PM_{10} and $PM_{2.5}$), nitrogen oxides (NO_X) and sulfur dioxide (SO_2). These have serious impacts on our health and the environment, as well as on the economy.

This problem is particularly acute in some regions of Spain. The country has 15 coal-fired power plants with an installed net capacity of around 10,004 MW. Most of these plants are located in the north of the Iberian peninsula, in the Autonomous Communities (AA.CC) of Asturias, Castilla y León and Galicia. The others are in Andalucía, Aragón and Balearic Islands.

[21] Available at http://www.ree.es/sites/default/files/downloadable/avance_informe_sistema_electrico_2017_eng.pdf

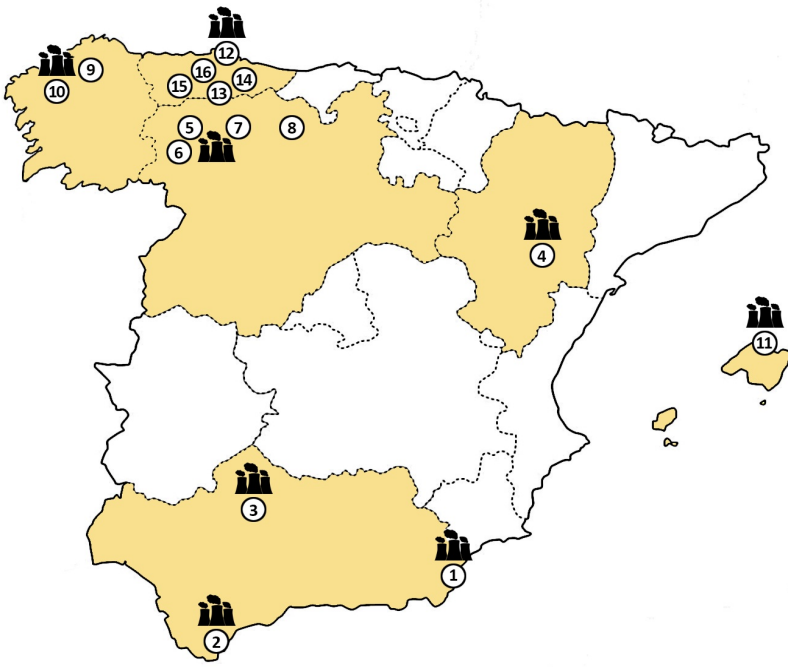


Figure 1: Location of coal-fired power plants in Spain

Air pollution affects human health in many different ways, but its impacts are particularly acute for people who are already ill, as well as for the most vulnerable groups, such as children.[22]

The Air Quality Guidelines (AQG) developed by the World Health Organization (WHO) are intended to support measures aimed at achieving air quality that protects the health of citizens in different situations. These guidelines are based on a comprehensive set of scientific evidence relating to air pollution and its health consequences.[23]

These studies indicate that exposure to $PM_{2.5}$ is associated with an increase in the systemic inflammatory response and oxidative stress,[24] as well as with variations in the biomarkers of cardiovascular inflammation such as C - reactive protein (CRP)[25] and fibrinogen.[26,27] Long-term exposure promotes the progression of cardiovascular

[22] Source: WHO. More information at:
http://www.who.int/phe/health_topics/outdoorair/databases/health_impacts/en/
[23] WHO, *Air Quality Guidelines. Particulate matter, ozone, nitrogen dioxide and sulfur dioxide*. Global Update 2005.
Available at: http://www.euro.who.int/__data/assets/pdf_file/0005/78638/E90038.pdf
[24] Oxidative stress is essentially an imbalance between the production of free radicals and the ability of the body to counteract or detoxify their harmful effects through neutralization by antioxidants. Source: News Medical.
[25] CRP is a protein which can be found in the blood. The level of CRP rises when there is inflammation throughout the body. Thus, it can be considered as a marker of cardiovascular risk.
[26] Fibrinogen is a high-molecular weight protein in the blood plasma that by the action of thrombin is converted into fibrin; called aso factor I. In the clotting mechanism, fibrin threads form a meshwork for the basis of a blood clot. Most of the fibrinogen in the circulating blood is formed in the liver. Its blood levels may vary under certain conditions. If it increases there can be many diseases associated to this like an infection, a cancer, a lymphoma or inflammatory diseases.

diseases as a whole and has been associated with an increase in total mortality, including through an increase in the number of cases of lung cancer[28] and respiratory diseases.[29]

NO_2 is a highly reactive and equally hazardous health pollutant present in the vast majority of urban and industrial areas. These studies show that prolonged exposure to NO_2 can cause damage to the respiratory system and is associated with increased symptoms of bronchitis, asthma, lung function impairment and lung cancer[30]. In fact, numerous epidemiological studies conducted in Europe and the rest of the world conclude that between 5 and 7% of lung cancer cases in ex-smokers and non-smokers may be associated with exposure to high concentrations of this pollutant.[31] It is also related to an increase in mortality.

SO_2 has been associated with an increase in asthma and chronic bronchitis as well as with a decrease in lung function and bronchial inflammation. Hospital admissions and deaths due to heart disease increase on days when SO_2 levels are higher.[32]

In June 2016, a study was published by CAN Europe, HEAL, Sandbag and WWF analyzing the health impacts caused by the emissions of 257 coal plants in the EU in the year 2013.[33] According to this study, emissions from coal power plants located in Spain caused 1,530 premature deaths in total, of which 840 were in Spain and 690 in other EU and non-EU countries.[34]

One year later, the same experts updated the health impact data of these coal power plants' with the emissions from 2015. According to this data, the emissions from Spanish coal power plants caused 2,265 premature deaths, 1,470 cases of chronic bronchitis in adults, 1,937 hospital admissions, 804,218 lost working days and 68,613 asthma attacks in children[35]. The health costs associated with these impacts ranged between 3,491 M€ to 6,442 M€[36]. This data corresponds to impacts both in and outside of Spain, due to the transboundary nature of the air pollution generated by coal-fired power plants.[37]

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[27] WHO - Regional Office for Europe, *Review of evidence on health aspects of air pollution-REVIHAAP Project*, 2013, p. 7.
[28] Ghassan B. Hamra, Outdoor Particulate Matter Exposure and Lung Cancer: A Systematic Review and Met-Analysis, *Environmental Health Perspectives*, Vol. 122, N. 9, 2014.
[29] WHO - Regional Office for Europe, *Health risks of air pollution in Europe – HRAPIE project*, 2013.
[30] WHO - Regional Office for Europe, *WHO Expert Consultation: Available evidence for the future update of the WHO Global Air Quality Guidelines*, 2016, p. 17.
[31] Y. Omidi et al., Exposure to PM_{10}, NO_2 and O_3 and impacts on human health, *Environmental Science and Pollution Research*, 2016.
[32] WHO, *Ambient (outdoor) air quality and health*, September 2016.
URL: http://www.who.int/mediacentre/factsheets/fs313/en/
[33] "*Europe's Dark Cloud – How coal-burning countries are making their neighbours sick"* was published in June 2016 by WWF, Climate Action Network (CAN) Europe, Health and Environment Alliance (HEAL) and Sandbag. Available online at: http://www.caneurope.org/docman/coal-phase-out/2913-dark-cloud-report/file
[34] Ibid, page 23.
[35] Source: https://beyond-coal.eu/data/
[36] Ibid.
[37] Data available at: https://beyond-coal.eu/data/

In 2017, IIDMA's study "A Dark Outlook: the health impacts of coal-fired power plants in Spain during 2014" estimated the health impacts – and the associated economic impacts – derived from the emission of pollutants into the atmosphere from coal power plants in Spain during the year 2014.[38] The scope of this study is exclusively within Spain. The key findings of this study are:

Health impacts of Spanish coal-fired power plants emissions in 2014		
$PM_{2.5}$	Mortality (all natural causes)*	586
	Non-fatal strokes	189
	Hospital admissions (respiratory diseases)	219
	Hospital admissions (cardiovascular diseases)	120
	Restricted activity days	747,686
	Work days lost	163,326
PM_{10}	Prevalence of bronchitis in children	1,053
	Incidence of asthma symptoms in asthmatic children	10,521
	Incidence of chronic bronchitis in adults	387
NO_2	Mortality (all natural causes)*	107
	Hospital admissions (respiratory diseases)	120
	Bronchitis in asthmatic children	180
SO_2	Mortality (all natural causes)*	16

* Includes mortality due to fatal strokes, cardiovascular and respiratory diseases, among others.

Source: *A Dark Outlook: the health impacts of coal-fired power plants in Spain during 2014*

In 2014, the total health costs in Spain associated with coal burning ranged between 880 and 1,667 M€.

Those studies provide evidence of how pollutants emitted from coal plants in Spain negatively impact the right to health provided by Article 12 of the Covenant, not only of Spanish citizens but also of the citizens of other neighboring countries.

The emission limit values of these power plants are regulated by European Union legislation. The emissions from coal plants in Spain have been subject to derogations allowing them to emit higher amounts of pollutants. The first derogation granted exclusively to Spain was introduced by Council Directive 88/609/EEC of 24 November 1988 on the limitation of emissions of certain pollutants into the air from large combustion plants[39] consisting of a temporary and limited derogation from the full application of the emission limit value of sulfur dioxide fixed for new plants.

[38] The used methodology consisted in two phases. In the first one, a simulation of the dissemination of NOx, SO_2 and particulate matter emissions from coal power plants was carried out using a mathematical model of dispersion (CALPUFF). At a later stage, the results of this simulation were completed with demographic and epidemiological data in order to quantify the effects of these emissions on health in populations at provincial, regional and national levels. To this extent, the respective *concentration-response functions* (CRFs) were applied. These functions reflect the relationship between the concentration increase of a given pollutant and its impact on health following a WHO methodology. In addition, a comparison was made of the all natural cause mortality incidence rates related to an increase in the concentration of $PM_{2.5}$, both at regional and provincial levels.

[39] See Article 5 (3). *Official Journal L 336 , 07.12.1988, Available at http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:31988L0609&from=en*

After, Directive 2001/80/EC of the European Parliament and of the Council of 23 October of 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants (LCPD)[40] allowed Member States to exempt existing plants from compliance with the stricter emission limit values (ELVs) for NOx, SO_2 and dust introduced by this Directive. This derogation was applicable to those plants under a national emissions reduction plan[41] or whose operators had committed to closing no later than 31 December 2015.[42] Spain passed its own national emissions reduction plan, in force until 31 December 2015,[43] which included most of the coal plants in Spain. Only a few were subject to the closure commitment. Nevertheless, all Spanish coal plants were subject of derogations to the ELVs provided under Directive 2001/80/EC.

Finally, Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (IED)[44] established stricter ELVs than those in the LCPD, which was repealed by the IED starting 1 January 2016. In spite of those stricter ELVs, the IED again allowed derogations. Coal-fired LCPs in Spain are subject to the following ones:

1. **Transitional National Plan (TNP)**,[45] which allows them to emit more SO_2, NOx and particles until 30 June 2020, under the condition that from that date they are subject to the ELVs set in the IED for existing plants.[46] The first version of the Spanish TNP was approved by the European Commission (EC) on 29 May 2015 and has been applicable since 1 January 2016.
2. **Limited Lifetime Derogation (LLD)**,[47] which allows them to be exempted from complying with the ELVs and desulphurisation rates set in the IED, provided that they meet certain conditions.[48] One of these conditions was the obligation for the operator of the combustion plant to commit before 1 January 2014, in a written declaration submitted to the competent authority, to not

[40] OJ L 309, 27.11.2001. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32001L0080.
[41] Article 4(3).
[42] Article 4(4).
[43] Available at: http://www.minetad.gob.es/energia/desarrollo/Medioambiente/Documents/PNRE_DIC2007.pdf
[44] OJ L 334, 24.11.2010. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010L0075.
[45] Article 32.
[46] The ELVs for existing plants under the IED are those set out in part 1 of Annex V.
[47] Article 33.
[48] Article 33.1 of the IED provides: "(...) provided that the following conditions are fulfilled: (...)b) the operator is required to submit each year to the competent authority a record of the number of operating hours since 1 January 2016; (c) the emission limit values for sulphur dioxides, nitrogen oxides and dust set out in the permit for the combustion plant applicable on 31 December 2015, pursuant in particular to the requirements of Directives 2001/80/EC and 2008/1/EC, shall at least be maintained during the remaining operational life of the combustion plant. Combustion plants with a total rated thermal input of more than 500 MW firing solid fuels, which were granted the first permit after 1 July 1987, shall comply with the emission limit values for nitrogen oxides set out in Part 1 of Annex V; and (d) the combustion plant has not been granted an exemption as referred to in Article 4(4) of Directive 2001/80/EC".

work for more than 17,500 hours from 1 January 2016 until 31 December 2023, at the latest.[49]

3. **Small Isolated Systems Derogation (SISD)**,[50] which allows combustion plants that were part of a small isolated system[51] on 6 January 2011 to be exempted from the ELVs and desulphurisation rates set in the IED until 31 December 2019.

All Spanish coal plants have been included in one of the above derogations. Thus, the Spanish authorities have continuously allowed higher levels of emissions for these plants, which, as explained, cause serious health problems.

In spite of the impacts that coal power plants cause on economic, social and cultural rights, including health, Spain is taking no measures to reduce those impacts. On the contrary, it is preparing a legal instrument in the form of a Royal Decree to avoid and/or hamper the closure of coal power plants. On 10 November 2017, a Spanish energy company filed its application to close its two remaining coal power plants. In response, the Ministry of Energy, Tourism and Agenda Digital published the draft of that Royal Decree which will make the closure of a coal power plant very cumbersome, mainly based on arguments regarding energy prices and supply security but disregarding the effects those plants have on the climate and on the health of Spanish citizens.

In consequence, we urge the CESCR to recommend that the State party carry out an assessment of the impact of air pollution from coal-fired power plants on health and on the climate in Spain and beyond and that it design a strategy to remedy these impacts and guarantee the effective enforcement of the stricter EU pollution standards.

4. Inadequacy of Spanish climate change policy and absence of a comprehensive climate strategy to reduce emissions of greenhouse gases in line with international objectives

Under the Kyoto Protocol, the EU agreed to reduce its overall emissions by 8% for the first commitment period from 2008 to 2012 (compared to 1990 levels). To reach this commitment, the EU laid out the specific individual targets known as the

[49] The only possibility for a plant which is under the LLD to continue operating after 31 December 2023, is if they undertake the necessary works to start operating as a completely new plant under the IED, complying with the stricter ELVs set out under the BAT requirements for new plants, according to the BREF which is expected to enter into force by 2021.
[50] Article 34.
[51] According to article 2(26) of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, of 14.08.2009), "small isolated system" refers to "any system with consumption of less than 3,000 GWh in the year 1996, where less than 5% of annual consumption is obtained through interconnection with other systems".

"European bubble". Under this bubble Spain was allowed to increase its GHG emissions up to 15%.[52]

However, Spanish emissions grew above that allocation. For example, in 2007 they reached an increase of 52.6% compared to 1990.[53] The increase continued until 2008, but from 2009 to 2012 emissions decreased due to the economic downturn. From 2013 to 2015 the GHG emissions trend increased. In 2016 the emissions declined by 3%. However, in 2017 they have increased again because of the growth of demand coverage by coal caused by the limited availability of hydroelectrically generated power due to limited rainfall that year.[54] Spain's emissions are expected to increase by 14% in 2020.[55] The Intergovernmental Panel on Climate Change has suggested that keeping the increase of temperatures below dangerous levels would require industrialized countries achieving a 25% to 40% reduction in emissions by 2020 compared to 1990 and a reduction of 80% to 95% by 2050.[56]

Figure 2: Evolution of emissions of greenhouse gases in Spain compared to the reference year (1990)

In addition to its pattern of emissions increases, the government of Spain has yet to adopt a comprehensive strategy to fight climate change. At present, Spain has no climate change objectives at national level beyond those established at the EU level for 2020. Law 2/2011 of 4 March 2011 on the Sustainable Economy transposed the EU '20-20-20' objectives on emissions reductions, energy efficiency and renewables into Spanish law.

As a consequence, the GHG emissions of the country are projected to increase between 2015-2050 according to governmental estimates. Until 2030 emissions decrease slightly (-1%) due to changes in the energy mix and existing mitigation

[52] Commission Decision of 14 December 2006 determining the respective emission levels allocated to the Community and each of its Member States under the Kyoto Protocol pursuant to Council Decision 2002/358/EC (notified under document number C(2006) 6468) (2006/944/EC)
[53] Farley, J and Malghan, D, Ed. *Beyond Uneconomic Growth: Economics, Equity and the Ecological Predicament,* Edward Elgar Publ., 2016, *p. 289.*
[54] Source: Spanish Sustainability Observatory
[55] https://www.eea.europa.eu/data-and-maps/data/greenhouse-gas-emission-projections-for-3.
[56] IPCC Assessment Report 4 Working Group III, Box 13.7, available at http://www.ipcc.ch/publications_and_data/ar4/wg3/en/ch13-ens13-3-3-3.html

measures. Beyond 2030, the emissions increase reaches +9% in 2050 compared to 2015 (-17% compared to 2005).[57]

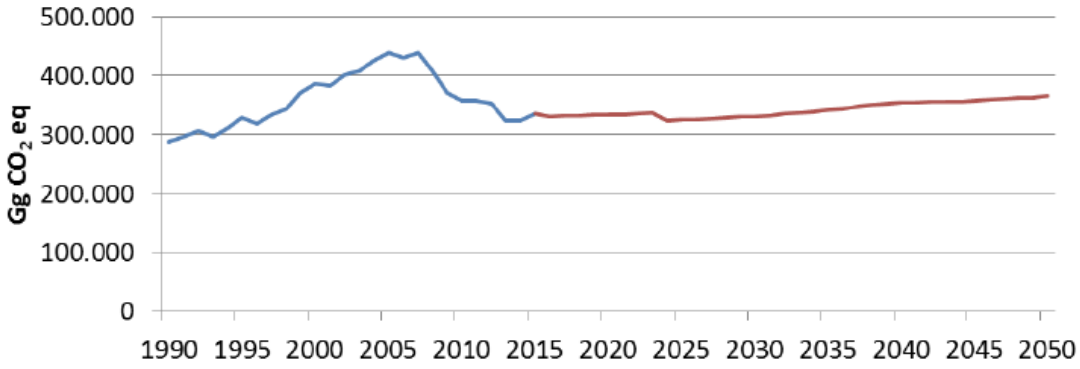

Figure 3: Historic (blue) and projected (red) emissions of greenhouse gases in Spain (source: National Communication of Spain to the UNFCCC, 2017)

	GHG						
	Inventored emissions				Projected emissions		
	1990	2000	2005	2015	2020	2030	2050
Emissions (M CO_2-eq)	287	385	439	335	333	330	366
Variation with respect to 2005				- 24%	- 24%	- 25%	- 17%
Variation with respect to 2005					-1%	-1%	9%
Annual medium variation between 2015 and 2050							0,3%

Figure 4: Projected emissions of Spain (source: Ministry of Agriculture, Fisheries, Food and the Environment)

This alarming trend in future emissions results from the increase of projected emissions in most sectors of the Spanish economy, including energy production, manufacturing and construction industries, domestic and international transport, and land use, land use change and forestry.[58]

The Paris Agreement – which Spain ratified on 12 January 2017 – sets a collective objective to keep the increase of temperatures "well below 2°C" and requires states to "pursue efforts to limit the temperature increase to 1.5 °C above pre-industrial levels".[59] Additionally, the Agreement also commits its parties to achieving collectively a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century.[60] Given that these objectives are to be met in the context of the principle of common but differentiated responsibilities and respective capabilities, industrialized countries such as Spain have a greater responsibility to contribute to these collective efforts.

A joint report prepared by several Special Procedures of the UN Human Rights Council has emphasized that the severity of climate-induced human rights impacts

[57] Proyecciones de Emisiones de Gases Contaminantes a la Atmósfera, Edición 2015-2050, Sumario de Resultados, 2.03.2017. P. 24. Available at http://www.mapama.gob.es/es/calidad-y-evaluacion-ambiental/temas/sistema-espanol-de-inventario-sei-/espana-2017-proyeciones-informeresumen-corregido-junio2017_tcm7-453272.pdf

[58] 7th National Communication of Spain to the UNFCCC (2017), available at http://unfccc.int/national_reports/annex_i_natcom/submitted_natcom/items/10138.php

[59] Paris Climate Agreement, Article 2.

[60] Ibid., article 4.1.

increases with the increasing magnitudes of warming.[61] Consequently, the obligation defined in the ICESCR to "take steps […] to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures"[62] strengthens the duty for states to pursue policies aiming to meet the more ambitious goals contained in the Paris Agreement.

As already noted, the Intergovernmental Panel on Climate Change has suggested that keeping the increase of temperatures below dangerous levels would require industrialized countries to achieve a -25% to -40% reduction in emissions by 2020 compared to 1990 and a reduction of 80% to 95% by 2050.[63] However, Spain's emissions are expected to *increase* by 14% by 2020, resulting in a compliance gap of at least 39%.[64]

Further scientific studies have also highlighted that emissions reductions associated with the collective objectives defined in the Paris Agreement can only be achieved if emissions from fossil fuel consumption are significantly reduced – most particularly in relation to coal.[65]

The Spanish government's commitment to pass a Climate Change and Energy Transition Law was announced by its President at the 2015 Paris Climate Conference (UNFCC COP-21) and was confirmed by him at subsequent annual UN climate conferences (Marrakech, 2016; Bonn, 2017) as well as at the One Climate Summit in Paris (December 2017). However, at the time of the drafting of this parallel report no draft text has been shared.

In accordance with Article 4(19) of the Paris Agreement, all Parties should strive to formulate and communicate long-term low greenhouse gas emission development strategies in order to contribute to the realization of the objectives highlighted in article 2 of the Agreement.

In this context and to ensure that Spain meets its obligations under the ICESCR, the CESCR should recommend that the State adopt a legally-binding climate change framework with time-bound emission reductions targets including targets for 2030 and 2050 that are at least in line with the objectives contained in the Paris Agreement, as well as develop a comprehensive strategy to ensure that all economic sectors implement this framework.

[61] "The Effects of Climate Change on the Full Enjoyment of Human Rights", report by Special Procedures Of The United Nations Human Rights Council for the Climate Vulnerable Forum (June 2015), available at http://www.environmentalmigration.iom.int/effects-climate-change-full-enjoyment-human-rights
[62] ICESCR, Article 2.1.
[63] IPCC Assessment Report 4 Working Group III, Box 13.7, available at http://www.ipcc.ch/publications_and_data/ar4/wg3/en/ch13-ens13-3-3-3.html
[64] IPCC Assessment Report 4 Working Group III, Box 13.7, available at http://www.ipcc.ch/publications_and_data/ar4/wg3/en/ch13-ens13-3-3-3.html
[65] See McGlade, C., & Ekins, P. (2015). The geographical distribution of fossil fuels unused when limiting global warming to 2 [deg] C. *Nature*, *517*(7533), 187-190