

**Question for written answer E-002708/2024/rev.1
to the Commission**
Rule 144
Estrella Galán (The Left)

Subject: Measures to suspend the Mularroya project and prevent the undermining of Special Protection Areas and the Water Framework Directive

The Mularroya project is a set of hydraulic structures (a dam, a diversion weir and a diversion tunnel) in the Grío and Jalón rivers – Ebro river basin – which has seriously impacted the environment in a number of ways.

The first building permit for the project¹ was annulled²³. The second one⁴ was also annulled, at first instance⁵, but the Spanish Supreme Court overturned that judgment on appeal⁶.

This appeal on a point of law addressed⁷ whether the requirement to state and explain the ‘deterioration’ exemption in the river basin management plan (Article 4(7)(b) of Directive 2000/60⁸) should necessarily entail a statement detailing the impacts on the affected bodies of water and identify every such body to which the exemption applies.

Without making a reference for a preliminary ruling to the CJEU, the Supreme Court stated in its judgment⁹ that it was not necessary to make such a statement. This is contrary to the case-law of the CJEU which requires that such statements be assessed (judgment of 1 June 2017, *Folk*, C-529/15¹⁰, paragraph 39; judgment of 28 May 2020, *Land Nordrhein-Westfalen*, C-535/18¹¹, paragraph 81; and judgment of 1 July 2015, *Bund für Umwelt und Naturschutz Deutschland*, C-461/13¹², paragraph 66).

1. What is the Commission’s view on the potential consolidation of court judgments that run counter to the case-law of the CJEU?
2. What concrete actions could the Commission take?

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¹ https://www.boe.es/diario_boe/txt.php?id=BOE-B-2007-77143.

² <https://www.poderjudicial.es/search/AN/openDocument/4260aae18bfc87d7/20090709>.

³ <https://www.poderjudicial.es/search/AN/openDocument/8891be2eddba434f/20130320>.

⁴ https://www.boe.es/diario_boe/txt.php?id=BOE-B-2015-32010.

⁵ <https://www.poderjudicial.es/search/AN/openDocument/deb56eb02604e00a/20210421>.

⁶ <https://www.poderjudicial.es/search/AN/openDocument/425bcde4e87e0851a0a8778d75e36f0d/20221121>.

⁷ <https://www.poderjudicial.es/search/AN/openDocument/000173a8f1a4b3aa/20211104>.

⁸ <https://eur-lex.europa.eu/eli/dir/2000/60/oj?uri=CELEX:32000L0060>

⁹ <https://www.poderjudicial.es/search/AN/openDocument/425bcde4e87e0851a0a8778d75e36f0d/20221121>.

¹⁰ <https://curia.europa.eu/juris/liste.jsf?language=en&num=C-529/15>.

¹¹ <https://curia.europa.eu/juris/liste.jsf?language=en&num=C-535/18>.

¹² <https://curia.europa.eu/juris/liste.jsf?language=en&num=C-461/13>.