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Ms. Elżbieta Bieńkowska,
Commissioner for Internal Market, Industry, Entrepreneurship and SMEs

Brussels, 8th April 2019

Dear Commissioner,

Following-up on news that report that the European Commission is sending notification letters to several member states¹, including Portugal, over irregularities within the hydroelectric sector, I would like to share some facts with you that might further highlight the dimension of the problem in Portugal.

As you correctly point out in your letter of notification to the Portuguese government, the inexistence of transparency in the sector is overwhelming: from extensions granted over 25 years with no open procedure, to contracts negotiated below market prices to benefit private companies. It is simply outrageous.

You should know that the Portuguese Parliament has established an Inquiry Committee on these matters. In one of the hearings, the following information was brought out to the public:

On the 27th January 2005, Energias de Portugal (EDP), the largest energy company operating in Portugal, whose majority shares are now owned by the Chinese company Three Gorges, celebrated over a dozen agreements with Redes Energéticas Nacionais (REN), the state-owned company responsible for the management of energy grids in Portugal. These agreements, signed in a period where a transition government was ruling the country, had a single alarming purpose: to extend existing concession contracts with EDP, granting the company the concession of the hydroelectric public domain (served by dams) for the time of 25 years. The several agreements were not preceded by any open procedure or public procurement of any kind, rather simply giving, for a period of 25 years, the entirety of the hydric public domain to a single company.

¹ <https://www.jornaldenegocios.pt/empresas/energia/detalhe/extensao-da-concessao-das-barragens-a-edp-nao-cumpre-regras-europeias>

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This deal was then ratified by the Secretary of the State responsible for the energy sector, Mr. Manuel Lencastre, who published a legal act conferring the force of law to the agreement, and hence confirming the generous deal to EDP.

Shortly after, in 2007, the case worsened even further. The official concession agreement, by which the terms of the 2005 agreement would be operationalized, granted the extension of 27 concession agreements to EDP for a price under the official evaluation. This means that, not only EDP had obtained an unbelievable 25 years concession, as it had secured it by a substantial lower price that originally evaluated.

When the actors responsible for the signing of these ruinous contracts were asked to appear before the Parliamentary Inquiry Committee, not a single one could recall the terms of the agreement or the reasoning behind it. It was a show of hypocrisy, mocking both the members of parliament and the Portuguese taxpayers. Only Mr. Orlando Borges, President of the Public Institute for Water (Instituto da Água) from 2000 to 2012, alerted to the fact that that extension, without an open tender, could be illegal (see attached transcripts of the full hearing). However, the Minister of Economy, Mr. Manuel Pinho, fully ignored his fears and changed the initial proposals, which contained provisions for an open procedure to be conducted.

Mr. Manuel Pinho is currently being investigated by the Portuguese judicial authorities for receiving payments by Banco Espírito Santo (BES) while serving in government. And government, he became a visiting scholar at Columbia University, a tenure which was sponsored by EDP.

In view of the above, I suggest you ask and study the full report of the Inquiry Committee, which is about to be adopted by the Portuguese Parliament.

I ask you, in particular, to further investigate the concession agreement that granted the use of the hydroelectrical public domain to EDP, and other contracts that maybe breach EU Law and, accordingly, demand that Portuguese authorities immediately introduce the necessary changes.

Ana Gomes,
Member of the European Parliament