Supreme Court judgment on the *Campelo* wind farm: does it clear the path for wind energy in Galicia?

Supreme Court Judgment no. 316/2025 marks a turning point in the intense litigation surrounding wind energy projects in Galicia. While confirming its doctrine on the public consultation procedure, the Supreme Court clarifies that the fact that several wind farms share evacuation infrastructure does not, in and of itself, establish the existence of a single project for environmental purposes, contrary to what was previously held by the Galician High Court of Justice.

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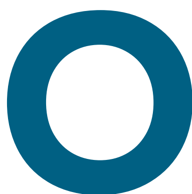n 21 March 2025, the Judicial Review Division of the Supreme Court gave a judgment - Judgment no. 316/2025 ('the judgment') - that is bound to have a pivotal effect on the complex legal situation of wind farms in Galicia.

There are currently upwards of one hundred wind energy projects subject to judicial review proceedings, and many of these projects have been provisionally put on hold. The position of the Galician High Court of Justice concerning wind energy projects within its territorial jurisdiction is well known. In short, this court takes a very restrictive and unfavourable stance on wind farm authorisations, as evidenced by how often it grants interim suspensions, as well as by the quashing of administrative authorisations and permissions for the construction of wind farms.

Shared connections do not turn wind farms into a single project

Beyond the technical or environmental issues specific to each project, the arguments that have been repeatedly favoured by the Galician High Court of Justice focus on two aspects:

1) defects in the public consultation (*información pública*) procedure, due to its reduction from thirty to fifteen days and due to the need for sectoral reports to be made available to the public;

2) an undue fragmentation of projects in the environmental assessment procedure, resulting, according to the court, from the separate analysis of wind farm projects that share an evacuation line.

The Supreme Court had already ruled on these aspects in judgements nos. 1768/2023 of 21 December and 119/2024 of 25 January, where, in short, it held that:

a) a distinction must be drawn between the time limit for submission of responses by interested parties, which cannot be reduced, and the time limit for submission of responses by the general public, which can be reduced provided that the new time limit is 'reasonable';

b) neither the Environmental Impact Assessment Directive nor the Environmental Assessment Act requires that, in the ordinary environmental impact assessment procedure for projects, consultation with the authorities must be carried out before that with the public.

Notwithstanding, in what seems an attempt to circumvent the effects of the Supreme Court's second conclusion above, the Galician High Court of Justice has made a reference for a preliminary ruling to the Court of Justice of the European Union (CJEU) concerning whether, in the light of Article 6(3) of Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, the sectoral reports issued in the environmental assessment procedure must be made available to the public concerned (and not only to the developers).

Now, the Supreme Court is ruling on three matters of interest for the formation of case law as to whether:

a) the establishment of wind farms that share connection facilities should be regarded as a single project for the purposes of environmental assessments;

b) in accordance with applicable legislation, the public consultation time limit can be cut by half in the environmental assessment procedure;

c) the sectoral reports required in the conduct of an environmental impact assessment should be collected before submitting the project and the environmental impact study to public consultation.

As pointed out, the Supreme Court had already ruled on the last two matters and now confirms its previous criteria with an important clarification: both refer to the public consultation procedure, which is different from the procedure for consulting the public concerned regulated in Article 6(3) of Directive 2011/92/EU. This

distinction leads to a judgment rejecting a stay of proceedings (pending preliminary ruling in the aforementioned reference) requested by the respondent in connection with the third matter, considering that there is no direct link between the reference for a preliminary ruling and the matter of interest for the formation of case law, as they refer to different procedures within the environmental assessment procedure as a whole.

This conclusion is not trivial and can be read as a clear message - addressed, in particular, to the Galician High Court of Justice - that the Supreme Court's opinion has already been formed and must be applied, without a reference for a preliminary ruling serving as a pretext to stray from it.

What is truly novel about the judgment is the Supreme Court's response to the first matter:

> from an exclusively environmental perspective (not from the point of view of jurisdiction, urban planning or competition law), the answer we must give to the matter of interest for the formation of case law raised in the order giving leave to proceed, relating to determining whether wind farms that share connection facilities should be considered a single project for the purposes of its environmental assessment, is as follows:
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> — The fact that two or more wind farms share connection facilities does not necessarily mean that we should consider the existence of a single wind farm project for the purposes of its environmental assessment.
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> — The determination of whether, in such a case, the existence of a single wind farm should be considered for the purposes of its proper environmental assessment must be made on a case-by-case basis, considering concurrent circumstances and in light of applicable laws and case law».

This doctrine is the one that results, as the judgment points out (citing several pieces of legislation in this sense), from existing legislation, which has pushed for wind farms to share infrastructure in order to limit the environmental impact of this type of facility.

The application of this doctrine to the case under consideration leads the Supreme Court to reverse the appealed judgment in view that the court a quo concluded the existence of a project unit, for the purposes of its environmental assessment, solely on the basis that the three wind farms in question share infrastructure and evacuation lines, without assessing other concurrent circumstances or analysing the impact of such separation on the adequacy of the environmental assessment carried out in the case, the sufficiency of which was not subject to any examination.

It is fair to say that this Supreme Court judgment represents a substantial change in the landscape of challenges for wind energy projects in Galicia. Even a court with such a defined position as the Galician High Court of Justice will be hard pressed to uphold a general quashing doctrine after this judgment, so, in this new context, the Galician wind energy sector has every reason to be optimistic.

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