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CLASE 8.^a

COMISSION OF TRANSPARENCY OF GALICIA
OMBUDSMAN OFFICE OF GALICIA
Rúa do Hórreo 65
15700 Santiago de Compostela

[1]
COPY[2] OUTGOING
REGISTER DATAORDER NUMBER: 73
DATE: 29/05/2017

[3]
GENERAL REGISTRY OF THE GALICIAN REGIONAL GOVERNMENT
REGISTRY OF THE DISTRICT OFFICE OF LALIN
PONTEVEDRA

Date 29/05/2017 13:14:11

INCOMING REGISTER NUMBER 5152 / RX 1397283

The **ENVIRONMENTAL AND CULTURAL REGIONAL ASSOCIATION "PETÓN DO LOBO"**, with tax ID number G-15.777.238, registered in the Central Registry of Associations with number 2013/017851 Section 1; in the Galician Registry of Environmental Organizations with registration number 2014/129; registered in the Galician Registry of the Voluntary Action Organisations and also in the Galician Census of Associations and Cultural Entities with number: B-01-11/AC-114, Book: 2- File: 4918, with address for notifications at Barrio do Campo 17, Door 3, 2nd floor A, in Silleda (Pontevedra), telephone number 689532863.

EXPOSES:

FIRST.- On the 13th of February 2017 a request to access information regarding the Santa Comba group of mining concessions was sent to the Galician Regional Ministry of Economy, Employment and Industry. In particular, a full digital copy of the mining concessions San Antonio 1789, Oportuna 1792, Ampliación a Oportuna 2912, Santa Bárbara 1802, Carmen 1807, Santa María 1790, Carballeira 1801.

On the 6th of March 2017 this party was notified of the suspension of the processing time of that request for a period of 15 days as the rights of the company owning the mining concessions, Tin & Tungsten S.L., could be affected.

SECOND.- Article 27.4 of the above mentioned Act 1/2016 establishes that "*The resolution that provides or rejects access must be notified, to the requesting person and the affected third parties that had requested to be notified, as soon as possible, and, at the latest, in the maximum time limit of one month after the request has been received by the competent body that is to resolve the request*". It is considered that the maximum time limit of a month has already passed and that, therefore, this Association's right to access is being violated, together with the provisions of *Act 1/2016, of the 18th of January, and Act 27/2006, of the 18th of July*, as well as Article 13.d) of *Act 39/2015, of October 1st, on common administrative procedure of public administration*, and Article 12 of *Act 19/2013, of 9th of December, on transparency, access to public information, and good governance, and the rest of the legal system*.

For all these reasons, I hereby

REQUEST:

1.- That with this notice, the present complaint to the Commission of Transparency of Galicia is deemed to have been filed against the actions on the part of the Deputy directorate-general for Mineral Resources of the Galician Regional Government.

2.- That the Deputy directorate-general for Mineral Resources, in compliance with the applicable law, is urged to immediately provide this Association with a copy in digital format of the requested public information.

It must be noted that the Aarhus Convention regarding access to information, public participation and access to justice in matters concerning the environment. Both the above-mentioned Convention and the legislation on transparency establish mechanisms such as the dissociation of personal data to avoid infringements of the Statutory Act of Protection of Personal Data. On the other hand, the files that are being requested for access do not contain data that is especially protected, but indeed relevant environmental information (article 45 of the Spanish Constitution).

Santa Comba, 29th of May of 2017

The President,

[4] [5]

Signed: Ismael Antonio López Pérez

Translator's notes:

[1] Stamp indicating "COPY".

[2] Outgoing register stamp with handwritten order number and date.

[3] Sticker that contains the incoming register data of the document with a barcode.

[4] Illegible signature of Ismael Antonio López Pérez.

[5] Seal of "Asociación Petón do Lobo".

IOLANDA MATO CREO,

Official Certified Translator appointed by the Directorate-General of Language Policy, Regional Government of Galicia, with registration number 0121, and professional address in Froxán 4, Lousame 15212 (A Coruña), **HEREBY CERTIFIES** that the preceding text is a true and faithful translation of the original document written in Galician language. A sealed copy of the original document is attached.

In witness thereof, I sign and seal this Certified Translation in Froxán, 16 July 2017.

Seal and Signature



COMISIÓN DE TRANSPARENCIA DE GALICIA

VALEDORA DO POBO

Rúa do Hórreo 65
15700 Santiago de Compostela

COPIA

REGISTRO DE SALIDA

Nº DE ORDE:

73

DATA:

29/05/2017

REGISTRO XERAL DA XUNTA DE GALICIA
REGISTRO DA OFICINA COMARCAL DE LALÍN
PONTEVEDRA

ENTRADA 5152 / RX 1397283

Data: 29/05/2017 13:14:11



A ASOCIACIÓN AUTONÓMICA CULTURAL E AMBIENTAL PETÓN DO LOBO, con CIF. Nº. G-15.777.238, inscrita co nº. 2013/017851 Sección 1 no Rexistro Central de Asociacións, no Rexistro de Entidades de Carácter Ambiental dá Comunidade Autónoma de Galicia, número de Rexistro 2014/129, inscrita no Rexistro de Entidades de Acción Voluntaria de Galicia e no Censo de Asociacións e Entidades Culturais de Galicia co CIC: B-01-11/AC-114, Libro: 2- Expte: 4918, e con domicilio a efectos de notificacións en Barrio do Campo, 17, Portal 3, 2º A, Silleda (Pontevedra), teléfono 689 532863.

EXPÓN:

PRIMEIRO.- Con data de 13 de febreiro de 2017 remitiuse á Consellería de Economía, Emprego e Industria solicitude de acceso á información do Grupo Mineiro Santa Comba. En concreto solicitábbase copia dixital integra dos dereitos mineiros San Antonio 1789, Oportuna 1792, Ampliación a Oportuna 2912, Santa Bárbara 1802, Carmen 1807, Santa María 1790, Carballeira 1801.

Con data de 6 de marzo de 2017 comunicábbase a esta parte a suspensión do prazo de tramitación da dita solicitude por 15 días ao poder verse afectados os dereitos da empresa Tin & Tungsten S.L., propietaria dos dereitos mineiros.

SEGUNDO.- O art. 27.4 da citada Lei 1/2016, marca que "A resolución en que se conceda ou denegue o acceso deberá notificarse, á persoa solicitante e aos terceiros afectados que así o solicitasen, o antes posible e, como más tarde, no prazo máximo dun mes desde a recepción da solicitude polo órgano competente para resolver."

Considérase que xa transcorreu o prazo máximo dun mes e que, por tanto, se está vulnerando o derecho de acceso desta Asociación e as disposicións da Lei 1/2016, do 18 de xaneiro, e da Ley 27/2006, de 18 de julio, así como o Art. 13.d) da Lei 39/2015, do Procedemento Administrativo das Administracións Públicas e o Art. 12 da Ley 19/2013, de 9 de diciembre, de transparencia, acceso a la información pública y buen gobierno y el resto del Ordenamiento Jurídico.

Por todo o exposto,



16.07.17

SOLICITA:

1.- Que con este escrito se considere presentada a presente queixa ante a Comisión da Transparencia de Galicia contra a actuación por parte da Subdirección Xeral de Recursos Minerais da Xunta de Galicia.

2.- Que se inste á Subdirección Xeral de Recursos Minerais da Xunta de Galicia a entregar de forma inmediata a esta Asociación copia en formato dixital da información pública requerida en cumprimento da lexislación vixente.

Ter en conta que se está a vulnerar o Convenio de Aarhus sobre o acceso á información, a participación do público na toma de decisións e o acceso á xustiza en materia de medio ambiente.

Tanto o propio Convenio citado como a normativa de transparencia establecen mecanismos como a disociación de datos para non vulnerar a Lei orgánica de protección de datos de carácter persoal. Por outra banda, os expedientes aos que se solicita acceso tampouco conteñen datos especialmente protexidos, e sí información relevante en materia de medio ambiente (artigo 45 da Constitución española).

Santa Comba, 29 de maio de 2017

O PRESIDENTE,

Asdo.- Ismael Antonio López Pérez





16.07.17