

Deputada ao Parlamento Europeu

February 7, 2019

Aarhus Convention Compliance Committee  
<[aarhus.compliance@un.org](mailto:aarhus.compliance@un.org)>

To whom it may concern,

I wish to address the Aarhus Convention Compliance Committee as a Member of the European Parliament representing the constituency of Galiza as elected representative of the Bloque Nacionalista Galego (BNG) within the European Free Alliance.

I feel compelled to do so for a number of reasons in relation to the Committee's file ACCC/C/2017/153 which involves alleged non-compliance of the Galician Ministry of Industry, Economy and Employment (with oversight over mining), and particularly the cases of the San Fins and Santa Comba mining developments.

Firstly, I must note that the Galician Ministry responsible for mining adopted the Resolutions on the transfer of the San Fins and Santa Comba mining concessions in late 2008 and early 2009 when the political leadership of the said Ministry was the responsibility of the party I represent.

Those two resolutions, dated on 30/12/2008 and 25/03/2009 as referred to by the communicants, demanded and were conditional in strict abidance by the laws applicable at the time (which also included the Aarhus Convention and its transposition), to the submission, within a maximum period of three months, an Environmental Impact Study of the said project, in accordance to Royal Legislative Decree 1/2008, of 11 January, which approves the revised text of the Law on Evaluation of Environmental Impact of Projects.

However, in 2009, before the Galician Ministry adopted new resolutions on the projects that were to be presented and subjected to public participation through the appropriate process of environmental impact assessment, elections took place and the political leadership of the Galician Government changed.

The newly designated Director General of Mines and Energy, that is still in office after almost 10 years, took an unexpected and, in our view, inexplicable and potentially illegal step by ignoring the environmental conditionality

established in the said resolutions on the transfer of the San Fins and Santa Comba mining concessions.

The 2009 San Fins mining development project and associated restoration plan for sites degraded by mining was not only not subjected to public participation through the corresponding process of environmental impact assessment but was never submitted to the competent Galician Ministry of the Environment that was to establish the scope of the environmental procedures that were to take place. But the mining development projects and restoration plan were approved by Resolution of 28/12/2009.

This is the root cause of the problems now becoming evident in the ACCC case including the abandonment of the previous mine tailings dams and the lack of effective treatment of acid mine drainage. As we recover from the disturbing images from the Brumadinho mine tailings dam failure disaster in Brazil, in Galiza we can only shiver when thinking what would happen if the San Fins dams fails, a possibility already considered in a 2017 report by the Galician Water Administration.

As the documents in the ACCC file clearly indicate, the failure of the San Fins mine tailings dam would be followed by claims by the Galician Ministry of Industry stating that they have no responsibility whatsoever over the hypothetical disaster as the mine tailings dam is not really a mine tailings dam (as all evidence clearly demonstrates) but rather a former hydroelectric facility of which no historical record or living memory exists; while toxic mining waste contained in the tailings dam is not really toxic mining waste, but river sediments naturally rich in toxic substances due to natural background concentrations. This, however absurd, is the astonishing reality that this case illustrates.

The second reason for which I feel compelled to address the Committee is that I have visited the San Fins mines and tailings dams together with a fellow Member of the Galician Parliament and elected municipal councillors of the municipalities of Lousame (where the mines are located) and Noia (just 4 km downstream and which has a population strongly dependent on mussel gathering in the estuary area). I was deeply shocked by the situation of the tailings dams and the state of the river system and fail to understand the position being currently adopted by the administration responsible for it. The statements and reports presented by the Party in this ACCC case, particularly regarding the denial of the concession holder's and the mining administration's responsibility regarding the mine tailings dams, have implications that clearly transcend the case itself and that we will examine in detail.

During my visit to the mines I was also able to talk to locals from the area (some of the in their 70s and 80s) who have first hand knowledge of the 1960 disaster brought about by the critical failure of the mine tailings dam which the Galician administration now seeks to present as a purported hydroelectric facility. Unsurprisingly, no documental evidence, historical memory or physical trace exists on this alleged use which clearly seeks to release both the mining administration and the mining corporation from its past, present and future



responsibilities. On the contrary, both the stories told by locals and the documental evidence clearly establish how the tailings dams were built, used and maintained exclusively by the mining concession holders for that purpose, an explanation even reproduced in tourist information panels placed at the mining museum and paid for by the Galician Ministry of Industry through its department of mines.

The visit conducted together with local councillors from Lousame and Noia and the Member of the European Parliament representing the constituency was done at the request of local fishermen's associations. Our political group was made aware of the situation by the statements of the local fishermen's corporations of Noia, Porto do Son and Muros, representing thousands of families that live from fishing and mussel gathering and production in the area, who had contested the mining company's intention of obtaining a mine waste water discharge permit. As a consequence, the Bloque Nacionalista Galego local councillor in Noia proposed a Resolution against the discharge permit that was adopted unanimously by all 5 political parties present in the chamber, including the party of the Galician Government. I attach this Resolution **[Attachment 1]** as it illustrates the local concern raised by this mine's activities and the unanimous position of our local institutions. Similar resolutions were passed in the contiguous estuary municipalities of Muros and Outes.

The matter has also been raised numerous times in the Galician Parliament, including by my own party, through written and oral questions. On 22/11/2016 six Members of the Galician Parliament presented a resolution proposal **[Attachment 2]** specifically addressing the critical situation of the largest mine tailings dams in San Fins. The resolution called the Galician Government to inspect the mine tailings dam, to adopt the necessary precautionary measures to safeguard the safety of the dam and, after that, to adopt the enforcement measures and sanctions that may apply. On 12/06/2017 the same six Members of the Galician Parliament insisted with their concern through a battery of written questions to the Government regarding the situation of the said tailings dams **[Attachment 3]**. The questions addressed the continuous lack of cooperation of the department of mines with the Galician Water Authority in terms of providing documents that supported the concession holders' responsibility for the tailings dams

Finally, I would also like to mention how the matter has also been brought to the attention of the European Parliament by the Bloque Nacionalista Galego. This was done in 18/11/2016 in a written question to the European Commission with the title "Serious environmental problem caused by heavy metal releases from the San Fins mines (Lousame, Galicia)". In that question I warned how "Mining at San Fins (Lousame, Galicia) is causing a serious environmental and public health problem because river waters are being contaminated by mining waste and the resulting concentrations of heavy metals, especially cadmium, are above the limits set by environmental quality standards." "The heavy metals are discharged into the Ria de Muros e Noia in such quantities as to entail possible adverse effects on the shellfish beds on which the area depends economically. The effects on the ria might be serious if the dam built, and later abandoned, by the mining concession company were to burst; this would



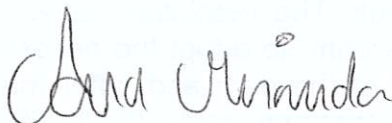
gravely endanger the health of the local people and the local economy, given that there are millions of cubic metres of mining waste impounded by the dam."

The questions were expressed in the following terms: "Will the Commission insist that the governments concerned put a stop to the heavy metal releases from the mines, especially those affecting the waters which pass through the disused tailings dam into the river channel?" "Does it know whether the operations of the San Fins mines have been the subject of an environmental impact study, with particular reference to their impact on the quality of the waters and the shellfish beds?"

Considering the seriousness of the matter, the severity of the environmental impacts in question and the statements made by the representatives and public servants of the Galician Administration within this ACCC case, I wish it receives due attention through the procedures established by the Convention.

I also wish to use this opportunity to invite the members of the ACCC or any external experts that it may designate to visit Galiza to allow in situ inspection of the sites referred to by the communicants and to learn first hand about the systematic difficulties that local and environmental organizations face in trying to access environmental information from certain departments of the administration –and particularly the administration of mines– which are often also endured even by Members of the Galician Parliament when making information requests through the official parliamentary channels.

Yours sincerely,



Ana Miranda  
Member of the European Parliament  
Greens-European Free Alliance

