

TO THE AARHUS CONVENTION COMPLIANCE COMMITTEE

SUBJECT: ACCC/C/2017/153 APPEARANCE AS EXTERNAL OBSERVER

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Arousa, April 10, 2019

Monsieur, Madame,

The Platform for the Defence of the Arousa Estuary (in Galician, Plataforma en Defensa da Ría de Arousa or PDRA) is an organization with legal personhood registered in the Central Registry of Associations of Galicia with number 1999/000296-1^a, bringing together the productive sectors of the Arousa estuary: the Fishermen's Guilds (public statute corporations) of Aguiño, A Illa de Arousa, A Pobra do Caramiñal, Cabo de Cruz, Cambados, Carril, O Grove, Rianxo, Vilanova de Arousa and Vilaxoán; as well as the Galician Mussel Regulation Council; and the producers organizations Amegrove, Opmeiga, Asmecruz, Federación Arosa y Norte, APM Illa de Arousa, APM A Pobra, APM San Amaro, APM San Saturnino, APM Virxe do Carmen, Acuimeiga, Asociación Galega de Depuradores, Parquistas de Carril and OPP-20. We feel urged to request our appearance as external observers in procedure ACCC/C/2017/153 in response to inaccurate claims by the Party concerned that directly address instances of our (in)ability to access environmental information and connected public participation procedures.

To understand the relevance and importance of the issues at stake, we must state that the primary sector of the sea of Arousa is strategic for the amount of direct employment it generates: foot mussel gatherers, mussel farmers, fishermen, on board mussel gatherers, etc. are an extremely wide collective of thousands of individuals that live off the sea and is represented by the above mentioned organizations. The fishing fleet of Arousa is made of of 1.709 fishing vessels and 842 auxiliary fishing and aquaculture vessels, respectively 38,6% and 69,9% of Galicia's total. This makes the fleet of Arousa one of the largest in all of Europe.

The sector generates stable employment, also in times of crisis, in comparison with other activities, as the sector is more capable of sustaining shifts in economic cycles as recent years have demonstrated. In regional terms, 44% of on foot mussel gatherers, 41% of small scale fishing techniques vessels and 68,7% of mussel farms are in Arousa. 38.329.584 kg of fishing and mussel products were auctioned in Arousa in 2016, which translate into 91.301.357 euros. And in the Arousa waters 174.497.538 kg of mussels (over 70% of Galicia's mussel production) were collected, worth 77.999.843 euros.

The sector as also great importance on land, with hundreds of companies that receive and process our products, provide services, and develop research, training and quality control. This turns the economic activities of Galician estuaries into an extremely important mechanism for distributing wealth locally and that encourages the development of a broad set of activities and business that are sustainable, increasingly also incorporating activities in the fields of tourism, gastronomy and culture, being very close by to Galicia's capital city Santiago.

The importance of what is at stake explains how the sector at large mobilized in the face of a new mining development project with a grave potential of affecting the sea: Project Touro, which was made public on August 25, 2017. The vast majority of the organizations that make up the PDRA presented claims regarding the project, in which access to the full administrative files of the mining concession was also requested, as this was a fundamental issue to be able to present claims to a "Project Actualization Project". To reopen an old mine it is vital to be able to confront the information regarding mining rights and their status, as well as conditions that had been established and the degree of compliance with such conditions. Quite evidently, the Touro copper mine, as other Galician mines, had failed to comply with environmental

restoration obligations, a matter being continuously concealed by the administration responsible for oversight during past decades.

The administrative body responsible for the processing of the project authorisation, the Directorate General of Energy and Mines, failed to provide response of any kind to our organizations within the established period to present claims within the public participation process, effectively curtailing our rights to participate in projects affecting the environment. Although the Directorate General was able to prevent that our organizations had access to the administrative files of the mining concession during the public participation time frame, greatly reducing our knowledge on past impacts and continuing failures to comply with environmental legislation as we were preparing our claims it still continued to maintain its obstructive position up to the present. It is worth noting how claims presented in public participation are an integral part of the information on the basis of which the different sectoral bodies as well as the environmental body are to consider to issue their respective reports. As none of this previous administrative information of the "Project Actualization Project" was provided to these sectoral bodies, their reports are exclusively based on the information provided by the company and what the claimants were able to produce in the initial 30 day period.

Having insisted in our rights to access the full administrative files of the project being "updated" in our January and February of 2018 requests that were sent by each of the Fishermen's Guilds public statute corporations and organizations that make up the PDRA, the administration again fails to respond in the legally prescribed times. For this reason, on May 2018 we reach out to the Valedora do Pobo (Ombudswoman) and request her help. It is only after the actions of the Valedora that the different organizations in PDRA receive a communication by which we are informed of the accumulation of the information request into one procedure. This takes place on July 2018, on holiday period, providing a period of 15 days to physically see the documents. An extension is requested, which the administration limits to just 8 additional days. This is clearly insufficient, considering that to visit the documents a 300 km drive by car must be done to the Coruña Territorial Offices.

In this limited time frame, our lawyers appear in our representation. The appearance takes place in a 6 square meters room, full of AZ document file boxes and one (sometimes 2) civil servants that actually have access to the AZ documents boxes and that ask: "What do you want to see?". "Everything" is the answer, to which they smile and state "Oh, that is a lot. It will take us a very long time". The civil servants have a hostile attitude. No copies can be done during the appearances. No pictures can be taken of any document or document box. Public servants claim nothing is available in digital format and that they cannot scan anything because it is a lot of documentation and they have no time available. Documents or boxes that are singled out for copying are noted with a pen on a piece of paper. When the lawyers ask when will the copies be available civil servants respond saying that they do not know, that nobody knows, that they will let us know, that they will have to ask.

Although our lawyers are often confronted with tense and hostile situations professionally, the description of the appearances in the Coruña Territorial Offices, the impossibility of actually obtaining copies in any reasonable time period after the visits, and the permanent attitude of obstruction and open hostility, lead our organizations to publicly demand the resignation of individuals holding the political and administrative positions that were responsible for such unacceptable conducts, which represent utter disrespect for public corporations and collectives representing many thousands of citizens and whole sectors of the economy.

In early August 2018 we receive notification that the mining development company has been informed of our requests, and was being given 15 days to present its claims. After that point, we receive no further notice. According to the Directorate General, the company has a right to oppose our requests of accessing environmental information, on the basis of the rights to protect industrial and intellectual secrets, in spite of being environmental information with

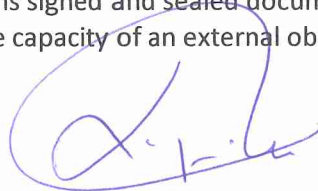
great relevance for a process undergoing and environmental impact assessment procedure. The impossibility to access this sets of public information, for its study by qualified technical and legal experts of our organizations, has systematically curtailed our rights of intervene and defend our organizations and interests throughout the process, as well as in future legal actions that may follow.

Failing to receive answer of any kind, in December 2018 we announce at a public press conference that we would initiate legal actions and a new complaint to the Ombudswoman. Only after this ultimatum, in January 2019, over a year after the first request to access information, we received a response by the Coruña territorial office listing the documents that would be provided. The same communication listed the organizations that had been considered as desisted for not having appeared at the physical visits in the Coruña offices that had taken place in the summer of 2018 as described above.

We must point out how, if it was not for the firm intervention of our lawyers during the visits, continuously pointing out to the civil servants the legal consequences of their obstructive and hostile attitudes, it would have been virtually impossible to identify in the given time frame the documents that were to be singled out for copying. And in spite of this monumental effort, it was not until January 2019 that copies, representing only a fraction of what was initially requested, are provided, at a time when the Environmental Impact Declaration is about to be issued finalizing the whole procedure. In other words, the use of the information that had been requested since the very beginning of the whole process had been effectively turned irrelevant.

We place this information on the knowledge of the Aarhus Convention Compliance Committee to further illustrate the systemic character of the vulnerations of this treaty and its translation into national law, in terms of fully supporting the facts and statements made by the communicants in this case. We are well aware of the consequences of the San Finx mine (addressed by the communicants) in the neighboring Muros-Noia estuary through the claims presented against that mine by our homologous Fishermen Guilds public corporations and other professional bodies in that area; and we are unwilling to allow similar impacts to affect the Arousa estuary as a consequence of the passive and complicit attitude of the administration. We sincerely hope the ACCC may establish the necessary measures so that this kind of situations cease, as they affect not only the rights of access and participation that the Convention seeks to protect, but also, in this particular case (the Touro mine) and other similar cases referred to by the communicants (the San Finx mine), the future of tens of thousands of peoples and communities that live sustainably from the naturally rich Galician estuaries.

On behalf of the PDRA, this document is signed and sealed document in Arousa, on April 2018, for its consideration by the ACCC in the capacity of an external observer to the said procedure.



Xaquín Rubido Muñiz

President of the Plataforma en Defensa da Ría de Arousa (PDRA).

