



Unofficial translation from the original Spanish

Madrid, July 5, 2017

N ° FILE: 001-012192

With date of February 22, 2017 had access to the Portal of Transparency of the Government, request for access to public information under the Act 19/2013, of December 9, transparency, access to public information and good government, presented by D. FÉLIX LORENZO DONOSO (Plataforma contrea la contaminación de Almendralejo). This request that had been received on March 1, 2017 in this General Technical Secretariat was registered with the number 001-012192 and had the following content:

First: If the Ministry of Justice is aware of the process opened to Spain for breach of the Aarhus Convention.

Second: We are forward copies of any documents relating to the issue at stake. In the event that there is information with some type of protection or classification, we request that we communicate what documents are and what Act expressly establishes it.

Third: If the Ministry of Justice is aware that the repeated failure to comply with the Resolutions of the Compliance Committee and the Parties that signed the treaty may have negative consequences for Spain.

Taking into account DECISION 1/7, XII. CONSIDERATIONS OF THE MEETING OF

THE PARTIES, which states in point 37. "In considering a report and the recommendations of the Committee, the Meeting of the Parties may decide on appropriate measures to achieve full compliance with the Convention." The Meeting of the Parties may decide, depending on the particular issue that is presented and taking into account the cause, degree and frequency of non-compliance, one or more of the following measures: "g) Suspend, in accordance with the applicable rules of international law regarding the suspension of the application of a treaty, the special rights and privileges granted to the Party concerned under the Convention; "

It is important to remember that the Vienna Convention on the Law of Treaties provides in its article "60. Termination of a treaty or suspension of its application as a result of its violation.

"2. A serious breach of a multilateral treaty by one of the parties will empower:

a) to the other parties, proceeding by unanimous agreement to suspend the application of the treaty totally or partially or terminate it.

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3. For the purposes of this article, they will constitute a serious violation of a treaty: b) the violation of an essential provision for the achievement of the object or purpose of the treaty”.

Fourth:

What measures has the Ministry of Justice taken or is it considering to ensure that, without delay, Spain complies with the provisions of the aforementioned Resolutions, so that before September 11, 2017, the date in which it will take place in Budva, Montenegro, the Sixth Period of sessions of the Meeting of the Parties to the Aarhus Convention, Spain is not exposed to the Parties can decide to suspend the application of the Aarhus Convention in our country.”

On April 5, 2017, it was admitted to the Transparency and Good Governance Council, a claim submitted by D. FÉLIX LORENZO DONOSO, under the provisions of article 24 of the LTAIBG, in which it stated that the term had elapsed maximum established without answering the request.

On April 18, 2017, the Transparency Council forwarded the file to the Transparency Information Unit of this Ministry, so that the appropriate allegations could be made.

The Ministry of Justice informed that on May 5, 2017, the interested party had been answered, resolving, according to the provisions of letter e) of article 18.1 of Law 19/2013, of December 9, on transparency, access to public information and good governance, the inadmissibility of the request for access to public information because it is understood that, with respect to what is requested in the first, third and fourth sections, it was not content that could be framed in article 13 of Law 19 / 2013, and regarding the second section, which requested that a copy of any document related to the subject matter be sent, it was understood that the information that is subsumed in the case of refusal contemplated in article 14 c) of the reference law, by affecting the foreign relations of our country.

On June 26, 2017, the Transparency and Good Government Council decided to partially estimate the aforementioned claim, urging this Ministry of Justice to provide the information referred to in the following seven days to D.FÉLIX LORENZO DONOSO. Legal Basis 7 of the resolution.

In execution of this resolution of the Transparency and Good Government Council, this Ministry of Justice proceeds to partially grant access to information and is informed of the following:

- 1. Regarding whether the Ministry of Justice is aware of the process open to Spain for breach of the Aarhus Convention.

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The Ministry of Justice is aware of the process opened to Spain in the framework of compliance with the Aarhus Convention, and, in fact, in 2013 it prepared a report that was attached to the study that MAGRAMA contributed to the compliance committee of the Convention. The aforementioned report included the criterion of the Ministry of Justice that the current Spanish legislation is in accordance with the requirements of the Convention.

This document is accessible to the public on the Convention website, at the following link:

https://www.unece.org/fileadmin/DAM/env/pp/compliance/MoP4decisions/Spain/STUDY_ON_ACCESS_TO_JUSTICE_IN_ENVIRONMENTAL_MATTERS_Spanish.pdf

- 2. Regarding whether the Ministry of Justice is aware that the repeated failure to comply with the Resolutions of the Compliance Committee and the Parties that signed the treaty may have negative consequences for Spain.

The Ministry of Justice knows the possible consequences for which they are questioned.

Decision V9 / K of the compliance committee of the Aarhus Convention expressed the need for Spain to comply with the provisions of sections 4 and 5 of art. 9 of the Convention. The aforementioned Committee requested that a study be carried out and Spain undertook to carry out the study in depth and present its results to the Meeting of the Parties through the Compliance Committee.

As a result of this commitment, six months before the fifth Meeting of the Parties, in 2014, this study on access to justice in environmental matters was presented and, as indicated above, it is considered that compliance with the requirements of the Convention is met, in the sense that if an environmental NGO registered in the Register of Associations of public utility, in accordance with the provisions of art. 32 of Organic Law 1/2002, of March 22, regulating the Right of Association, has incomes lower than the limits established to access free justice, yes it would be entitled to it.

- 3. Regarding the measures that the Ministry of Justice has taken or is considering to take, without delay, Spain will comply with the provisions of the aforementioned Resolutions, so that before September 11, 2017, when it will take place, in Budva, Montenegro , the sixth session of the Meeting of the Parties to the Aarhus Convention, Spain is not exposed to the Parties can decide to suspend the application of the Aarhus Convention in our country.

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It is stated that work is being done to establish the position of the Kingdom of Spain for the meeting in Budva, Montenegro, and for this purpose it is in contact with the Ministry of Agriculture and Fisheries, Food and Environment.

Against this resolution, which puts an end to the administrative procedure, a contentious-administrative appeal may be filed before the Superior Court of Justice of Madrid, or the Superior Court of Justice in which the applicant has his domicile within a period of two months (Law 29) / 1998, of July 13, governing the contentious-administrative jurisdiction).

The General Technical Secretary,,

José Américo Alonso.

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