

10 March 2023

Ms. Sabela Iglesias Garrido  
Asociación Verdegaia  
Spain

Dear Ms. Iglesias Garrido,

**Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Spain with the provisions of access to justice regarding the San Finx mine (PRE/ACCC/C/2022/195)**

At its seventy-seventh meeting (Geneva, 13-16 December 2022), the Compliance Committee agreed to defer its determination of preliminary admissibility to its seventy-eighth meeting (Geneva, 21-24 March 2023) and to send questions to the communicant for its written reply in advance of that meeting.

To this end, please find enclosed a list of questions from the Committee for your reply. Please send your replies to the enclosed questions to [aarhus.compliance@un.org](mailto:aarhus.compliance@un.org) by **Monday, 20 March 2023**.

Please do not hesitate to contact the secretariat if you have any questions regarding the above.

Yours sincerely,



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Fiona Marshall  
Secretary to the Aarhus Convention Compliance Committee

- Cc: Permanent Mission of Spain to the United Nations Office and other international organizations in Geneva  
Mr. Martín Fernández, Ministry for the Ecological Transition and Demographic Challenge
- Enc: Questions from the Committee to the communicant

Questions to the communicant:

1. With respect to your allegation that the Party concerned has failed to comply with article 9 (3) of the Convention, please specify the law(s) relating to the environment that you allege in your communication that Verdegaia did not have access to administrative or judicial procedures to challenge contraventions of.
2. Please specify which obligation(s) in article 9 (4) you allege in your communication that the Party concerned has failed to comply with. For each such obligation, please clearly explain in what way you consider that the Party concerned has failed to comply with that obligation.
3. Please specify in what capacity Verdegaia participated, if at all, in preliminary proceedings no. 223/2017, no. 370/2019 and no. 2226/2021.
4. Please explain what, if any, other possibilities (e.g. civil claim, administrative review) existed or still exist for Verdegaia to address the allegedly illegal ongoing wastewater discharges from the San Finx mine? Has Verdegaia attempted to use these other avenues? If so, what was the outcome? If not, why has Verdegaia not done so?
5. In your written statement of 14 December 2022, you claim that Verdegaia was expelled from criminal proceedings DPA 370/2019 after unsuccessfully appealing a decision by the judge of the No. 3 Court of Santiago requiring Verdegaia to submit a deposit of €3,000. You also claim that, in proceedings no. 2296/2021 before the same court, another environmental NGO was expelled from the proceedings after likewise being denied the right to appeal the court's decision to require it to submit a €3,000 deposit.
  - (a) Please briefly explain what is the stated purpose of requiring environmental NGOs to make a "deposit" in criminal proceedings concerning the environment.
  - (b) If you allege that these events constitute breaches of the Aarhus Convention, please explain which article of the Convention these events breach and how they are in breach of that article.
6. Please provide the text (in Spanish) of the following documents:
  - (a) Order of the Provincial Court of A Coruña dated 19 July 2019 as referred to in paragraph 6 of the communication;
  - (b) Judgment of the No. 2 Court of Preliminary Investigation of Noia dated 27 January 2020 as referred to in paragraph 10 of the communication;
  - (c) Decision of the No. 3 Court of Santiago dated 17 July 2022 referred to at page 1 of your written statement of 14 December 2022;
  - (d) Decision of the No. 3 Court of Santiago dated 1 September 2022 referred to at page 1 of your written statement of 14 December 2022.