

[Registration stamp of the No. 2 Court of Instruction of Noia dated 20 November 2019]

**TO THE NO. 2 COURT OF INSTRUCTION OF NOIA**  
**FOR SECTION 2 OF THE PROVINCIAL COURT OF A CORUÑA**

THE PROSECUTOR in procedure DP 223/17 **REQUESTS CLARIFICATION OF THE ORDER OF 19 JULY 2019**, notified to this Prosecutor's Office on 18 November 2019,

**FIRST:** On 11 March 2019, the prosecutor, in response to the transfer of the court for the fulfilment of article 773, stated that "having already reviewed the file on the San Finx mines, once article 324 obliges us to close the investigation, it is necessary to request the declaration of the Director General of Energy and Mines, Mr. [REDACTED], as a defendant accused of prevarication under article 329 in relation to the resolution of 28 December 2009 approving the projects of exploitation, restoration and improvement of the treatment facilities of the San Finx Mining Group and subsequent resolutions, including the transfer of the rights covered by that resolution and generating an environmental risk".

**SECOND:** The order issued by the Provincial Court establishes the nullity of the extension dictated by the court order dated 9-02-18, and establishes that the proceedings adopted since then are null and void.

**THIRD:** The request for the declaration of Mr. [REDACTED] as a defendant is based on the expert reports agreed before the end of the extension, and does not have its basis in any other proceedings agreed after the order that has been declared null and void, and this being the fundamental question debated, we understand that the order does not resolve, at least expressly, the debated question, and for this reason we request clarification:

On whether the taking of a statement as a defendant requested after the end of the extension cannot be carried out as the Court understands that it would be null and void, and therefore that a PA order [*Note: order of committal to trial*] could not be issued (as the defendant has not been heard), and therefore the case must be dismissed, which also means that it would be impossible to prosecute a criminal after the time limit of Article 324, even if the facts were not time-barred.

It is for this reason that we ask for clarification, as the Court seems to consider that the court could open a new procedural phase, but this is not true, it is not possible to choose between dismissing the case or continuing with the abbreviated procedure, so the decision capacity is not the one that the order determines at the end of its second reasoning, last paragraph, but exactly the opposite, that of transforming Article 324 into a cause for extinction or expiration of criminal liability, as the Court itself expresses very well in the previous paragraph, synthesising the judgement of the Superior Court of Justice of Murcia.

Santiago de Compostela, Monday, 18 November 2019.

[Seal of the Santiago de Compostela Prosecutor's Office]