



**Secretary to the Aarhus Convention Compliance Committee**  
United Nations Economic Commission for Europe  
Environment Division  
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06.12.2022

Procedure: **ACCC/C/2021/186 (Portugal)**

Subject: Ruling by the Administrative Court of Lisbon regarding the Borralha mine files

Dear Secretariat,

Ahead of the 77th meeting of the Committee to be held on 13–16 December 2022, Montescola would like to inform the ACCC that on November 29, 2022 the Administrative Court of Lisboa has issued a ruling in process 58/22.1BELSB regarding a request for environmental information to the Portuguese Mining Administration (DGEG) made on 28.03.2021 after consultations to provide a mining licence for the “Borralha” tin and tungsten mine were initiated in 04.03.2021.<sup>1</sup>

This ruling is not related to the Mina do Barroso procedure, but to another case that was noted by Montescola in our 13.10.2021 Response to questions to the parties from the Committee (para. 16.3). After DGEG ignored the administrative decision by CADA, Montescola was forced to initiate a judicial “summons of the administrative authority to provide information”. The procedure has taken almost 1 year to reach a judicial decision, which is not final.

The Court has ordered the DGEG to disclose documents on the basis that the response given by DGEG was “**devoid of meaning, in addition to revealing a misunderstanding of the content of the legal principles that govern all its activity**”. The decision further states that the “*generic affirmation on the presence of commercial secrets is not sufficiently sustained by a clear and contextual justification that would allow to negate the basic right of the public’s access to administrative and environmental information, as fixed in national legislation and international law*”.

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<sup>1</sup> Montescola requested to DSEF-RG the 3 following documents that were mentioned on the public consultations page: “1. *Characterization of the Borralha Tunstiferous mineral deposit*; 2. *Technical and economical pre-feasibility project for the exploitation of Brecha de Santa Helena-Borralha*; 3. *Metallurgical tests for ore beneficiation of Brecha de Santa Helena and development of a preliminary beneficiation scheme*”. Access was refused, on the basis that this was not an EIA procedure. On 12/04/2021 Montescola presented a complaint at CADA against DSEF-RG leading to Procedure n.º 294/2021 ending with CADA Report 228/2021. The report concluded that access should be provided.

However, instead of providing access to the environmental information that was requested, the DGEG has already announced that it is contemplating filing an appeal against the judicial decision at the Administrative Central Court – South, that **will further extend the delay in accessing information to over two years after the initial request**. Attachments of news items in English relating to the Court ruling and DGEGs response are attached.

As mentioned in our 13.10.2021 response, the Borralha case further illustrates the systemic misuse of the argument of “materials in the course of completion” as well as “industrial secrecy” as an excuse to refuse timely access to environmental information contrary to the consistent opinion of CADA as well as ACCC’s previous findings and general interpretations.

Yours sincerely,

Xoán Evans Pin, Director  
**Fundação Montescola**