



8.3.2021

NOTICE TO MEMBERS

Subject: Petition No 0761/2020 by José Manuel Romarís Cercós (Spanish), on behalf of PLADEMAR Muros-Noia, on the pollution of the Noia-Muros estuary caused by heavy metals

1. Summary of petition

The petitioner claims that heavy-metal pollution is taking place in the Noia-Muros estuary on the Atlantic coast of Galicia in a seafood harvesting area, which ensures the livelihood of more than 1500 families. The petitioner points out that, over the past century, the estuary has fallen victim to heavy-metal pollution from the acidic drainage of the San Finx tin and tungsten mines, located only 7 kilometres upstream. The petitioner points out that the correlation between acid mine drainage and the heavy metal pollution of the estuary's sediments has been shown in several scientific articles and the results of the same scientists, in respect of other heavy metals, were presented in the documentary 'San Finx 1960'. The petitioner claims that there is a permanent discharge of cadmium exceeding 93 times the maximum permitted annual average concentration and 311 times the permitted surface water values; the concentrations of copper and zinc are also well above the maximum permitted concentrations. The petitioner also points to a number of instances of non-compliance with EU directives during the 2009 mine development project. The petitioner reports that the local population and the shellfish harvesting families have been fighting since 2016 to put a stop to this permanent threat to life, health and livelihoods.

2. Admissibility

Declared admissible on 5 November 2020. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 8 March 2021

According to the available information, the San Finx tin and tungsten mine opened in 1884

and was in operation until its closure in 1990. The mine reopened in 2009 for a short period (until 2013); and was purchased by its current operator in 2015 with the aim of resuming the exploitation of the mine once the necessary adaptations were made to comply with the legal requirements currently in force for mining sites. It is important to note that all operations at the San Finx mine have been at a standstill since 2017, pending the acquisition by the operator of the relevant permits to dewater part of the mine's underground galleries. It also appears from the publically available information that criminal proceedings¹ are pending before Spanish courts since April 2019 as regards the allegations raised in this petition².

Conclusion

First, it should be underlined that the Commission actively promotes the development of a green, resource-efficient, low-carbon circular economy³. In this light, it has enacted a wide range of legal obligations and adopted several other measures over the last decades aiming at reconciling the necessary environmental and health protection, social concerns and the competitiveness of the mining industry through the mitigation or minimization of the disruption of the environment it involves.

Second, it should be recalled that the primary responsibility for enforcing EU law lies with the competent authorities in the Member States. It appears from the foregoing that the relevant mechanisms provided by the Spanish legal system have been triggered to institute legal proceedings and ensure the effective enforcement of obligations under EU law applicable to this case.

In light of the strategic approach to its enforcement policy⁴, the Commission considers that the means of redress available under Spanish law are indeed the most adequate mechanism to deal satisfactorily with the issues raised by the petitioner, insofar as they refer to individual instances of possible incorrect application of EU law. Furthermore, an intervention of the Commission at this stage might interfere with the ongoing proceedings before Spanish courts.

Consequently, the Commission does not intend to investigate the matter further at this stage as an individual case.

¹ Following an investigation of the Special Prosecutor for the Environment. See *inter alia*

https://www.eldiario.es/galicia/politica/Tahoces_0_889611742.html

<https://www.elcorreogallego.es/area-de-compostela/lousame/ecg/investigado-angel-tahoces-reapertura-san-finx/idEdicion-2019-04-18/idNoticia-1177743/>

² Including the lack of an environmental impact assessment procedure and the discharge into the Tambre River of untreated acidic mining leachates and runoff from the mine's tailings dams.

³ The resource-efficient Europe flagship initiative, part of the EU's growth strategy for a smart, inclusive and sustainable economy (Europe 2020 Strategy), supports the shift towards sustainable growth via a resource-efficient, low-carbon economy. The Commission Communication "Towards a Circular Economy" further promotes a fundamental transition in the EU, away from a linear economy where resources are not simply extracted, used and thrown away, but are put back in the loop so they can stay in use for longer. It sets out measures driving a more efficient use of resources and waste minimisation.

<https://ec.europa.eu/environment/circular-economy/pdf/circular-economy-communication.pdf>

⁴ As set out in the Communication from the Commission 'EU law Better results through better application', of 19 January 2017, (2017/C 18/02), DO C 18 de 19.1.2017, p. 10/20