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Legislation. Company requests disciplinary measures

Infinito filed appeal against high official of Setena

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Environmental Impact Study was endorsed last August, 31

The mine representatives claim that there was an infraction of time limits established to process the environmental support

Patricia Campos Mesen, high official of the Secretaría Técnica Nacional Ambiental (Setena), prepares her defense to the complaint filed against her, on August, 22<sup>nd</sup> by the Industrias Infinito mining company.

The company, subsidiary of Vanessa Ventures, waited for more than three years for the institution to approve the environmental impact study, requirement needed to initiate the gold extraction in its Crucitas project, in San Carlos.

It was finally endorsed on August 31<sup>st</sup> but, in spite of this, the complaint continues since it is an independent issue.

Jesús Carvajal, general manager of the company, insisted that , with this appeal, he expects to obtain the creation of an administrative managing body that will evaluate a possible disciplinary sanction against Campos.

This appeal was filed as a result of, according to his words, the infraction of the time limits established to process the environmental guaranty, also because technical reports, seemingly approving the mine's operation, were not included and due to offensive affirmations made by Campos.

The complaint is filed a few weeks after the parent company formalized an arbitral international lawsuit for the same reasons against the Costa Rican State.

It will not undergo any changes either because the position of the Constitutional Court is still pending. This body annulled the concession that had been granted four years before by the end of 2004. The company expects this judgment to be revoked.

Legal tool

This complaint is contained in the General Law of Public Administration(law number 6227, from May 1978) specifically on Chapter four, article 358 (see box: "what law says")

According to the procedure, Industrias Infinito had to file the complaint before Campos' supervisor first, that is to say, before the Environment and Energy Minister, Carlos Manuel Rodríguez, who had to notify his subordinate of the complaint formally.

In spite of this, the minister told this newspaper that, since he had not been notified on this issue, he was unaware of details.

He was consulted again on this issue, reminding him that he, himself, had signed the letter, but he did not answer.

Campos did answer. She acknowledged that she was familiar with the case but said "I am not able to advance any criterion since the procedure to follow is to offer my defense to the Minister. I am working on it and I will present it in the next few days"

She added: "He will decide if it is rejected, if he will open a managing body or if he will take other cautionary or additional measures"

Industrias Infinito asked the minister to apply two types of cautionary measures: to remove Campos while the requested investigation is carried out or to remove her immediately to avoid her involvement in the matter and the process of the issues related to the Crucitas file.

What law says

That kind of complaint is part of the fourth chapter of the General Law of Public Administration. On it, it is indicated that:

The individual being administered will be able to file it in case of process defects such as halting, infraction of time limits or omission of proceedings.

It must be presented before the hierarchical superior, who must notify the claimant within a 15 day period.

The complaint does not imply interruption of the procedure in question

If the complaint is received, the official will be warned. If they relapse, a disciplinary record will be opened.

If it is still pending for resolution after 15 days, the claimant would be able to resort to the Presidency of the Republic.