Body: **High Court of Justice. Contentious Chamber**
Location: **Coruña (A)**
Section: **2**
Date: **11/07/2025**
Appeal No.: **4019/2025**
Type of decision: **Judgment**

T.S.X.GALICIA CON/AD SEC.2 A

CORUÑA

JUDGMENT: 00313/2025

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Team/user: AC

Model: N11610 JUDGMENT ART. 121.3 LJCA

PLAZA DE GALICIA, 1. 15004 A CORUÑA

Email: EMAIL000

N.I.G: 15030 33 3 2025 0000108

Procedure: DF FUNDAMENTAL RIGHTS 0004019 /2025 /

Re: FUNDAMENTAL RIGHTS

From: María Milagros, Luis Miguel, Pedro Enrique, Ovidio, Coral, Amalia, Alejandro, ASOCIACION DE VECINOS AS CONCHAS (Neighbourhood Association), FEDERACION DE CONSUMIDORES Y USUARIOS CECU (Federation of Consumers and Users)

LAWYER MARIA VICTORIA HORMIGOS FABEIRO, MARIA VICTORIA HORMIGOS FABEIRO, MARIA VICTORIA HORMIGOS FABEIRO, MARIA VICTORIA HORMIGOS FABEIRO, , , , MARIA VICTORIA HORMIGOS FABEIRO, MARIA VICTORIA HORMIGOS FABEIRO

ATTORNEY IAGO MARTINEZ NUÑEZ, IAGO MARTINEZ NUÑEZ,IAGO MARTINEZ NUÑEZ,IAGO MARTINEZ NUÑEZ, IAGO MARTINEZ NUÑEZ,IAGO MARTINEZ NUÑEZ,IAGO MARTINEZ NUÑEZ,IAGO MARTINEZ NUÑEZ, IAGO MARTINEZ NUÑEZ

Against Mr./Ms. CONCELLO DE BANDE, CONCELLO DE MUIÑOS, CONCELLO DE OS BLANCOS, CONCELLO DE LOBEIRA, CONCELLO DE TRASMIRAS, CONFEDERACION HIDROGRAFICA DEL MIÑO-SIL, XUNTA DE GALICIA

LAWYER ANGELES CANTON ALVAREZ, ANGELES CANTON ALVAREZ, ANGELES CANTON ALVAREZ, ANGELES CANTON ALVAREZ, STATE ATTORNEY, LAWYER FOR THE COMMUNITY

ATTORNEY FOR MRS LETICIA MARIA DOMINGUEZ FORTES, LETICIA MARIA DOMINGUEZ FORTES, LETICIA MARIA DOMINGUEZ FORTES, LETICIA MARIA DOMINGUEZ FORTES,

JUDGMENT

High Court of Justice of A CORUÑA Contentious-

Administrative Chamber Second Section

Fundamental rights proceedings 4019.2025

HONOURABLE JUDGES:

Mª AZUCENA RECIO GONZALEZ (PRESIDENT)

JOSE ANTONIO PARADA LOPEZ (REPORTING

JUDGE) ENRIQUE GARCIA LLOVET

ANTONIO MARTINEZ QUINTANAR

In A CORUÑA, on the eleventh of July two thousand and twenty-five.

Having examined the proceedings of the fundamental rights APPEAL 0004019/2025 between the parties, as appellant Ms María Milagros, Mr Luis Miguel, Mr Pedro Enrique, Mr Ovidio, Ms Coral, Ms Amalia and Mr Alejandro, represented by the solicitor Mr IAGO MARTÍNEZ NÚÑEZ anddefended by the lawyer Ms ANA

GEORGINA GUERRERO RON, member of the Bar Association NUM000, of the ASOCIACIÓN DE VECIÑOS AS CONCHAS, represented by the solicitor Mr IAGO MARTÍNEZ NÚÑEZ and defended by the lawyer Mr JAIME DORESTE HERNÁNDEZ, member of the Bar Association NUM001 and the FEDERACIÓN DE

CONSUMERS AND USERS CECU, represented by the solicitor Mr. IAGO MARTÍNEZ NÚÑEZ and acting under the legal direction of Ms. MARIA VICTORIA HORMIGOS FABEIRO, and as defendants, the Miño Sil Hydrographic Confederation, represented and assisted by the State Attorney, the Regional Government of Galicia, represented and assisted by the Regional Government of Galicia's lawyer, the Town Councils of Bande, Trasmiras, Lobeiras, Muiños and Os Blancos, represented by the attorney Leticia Domínguez Fortes, and assisted by the lawyer of the Honourable Provincial Council of Ourense in assistance to municipalities on fundamental rights in relation to the environment,with the intervention of the Public Prosecutor's Office.

BACKGROUND

FIRST.- This contentious-administrative appeal was filed by Ms Ariadna, represented by Ms María Fernandez Serrano, Court Representative, and under the legal direction of Mr Carlos Guillermo Mera, against the decision of the Plenary Session of the Melón City Council dated 30 December 2022, indicated as number 3 in the Minutes attached as Document No. 1, by which it was agreed to "Provisionally approve the (PXOM) General Municipal Planning Plan".

The claim was filed after receiving the administrative file, in which, after setting out the facts and legal grounds deemed appropriate, which in summary consist of:

"Given the above premises, my clients understand that the environmental situation of the groundwater and surface water bodies in the Limia basin violates and compromises the human right to water of the inhabitants of the regions of A Limia and Baixa Limia. Indeed, as has been detailed in the factual background, the contamination by nitrates, nitrites and bacteria – all of which are pollutants originating from the extremely high livestock density in the basin – repeatedly compromises even the domestic water supply, whether through the supply network or private wells, which on many occasions exceed the legal and regulatory limits for water to be considered fit for human consumption.

Given that this is not a one-off situation but a chronic one, and that the defendant authorities are not taking serious and effective measures (beyond temporary fixes such as supplying water from tanks or distributing bottles), my clients consider that their human right to water has also been violated.

I conclude by requesting that the administrative appeal against the act referred to in the heading be deemed to have been lodged and, after the relevant legal procedures have been completed, that a judgment be handed down in due course upholding the administrative appeal lodged:

1. Declare the violation of the fundamental rights cited in this document; that is, the right to life and physical integrity and the prohibition of inhuman or degrading treatment (Articles 15 of the Spanish Constitution and 2 and 3 of the ECHR), the right to privacy and the inviolability of the home (Articles 18 of the Spanish Constitution and 8 of the ECHR), property (Article 33.1 of the Spanish Constitution and Article 1 of Protocol 1 of the ECHR) and water, all of them in relation to the right to enjoy a healthy environment appropriate to the needs of individuals under Article 45 of the Spanish Constitution.

2. That this violation is recognised as being caused by the inaction of the defendant public authorities, which, despite being aware of the situation and legally obliged to do so, have failed to take any remedial action.

3. The Regional Government of Galicia, the Miño Hydrographic Confederation-Sil and the Municipalities of Muiños, Bande and Lobeira to immediately adopt all necessary measures to put an end to the odours and environmental degradation of the As Conchas reservoir and its surroundings suffered by my clients, in order to restore their full enjoyment of the fundamental rights whose protection is sought in the present proceedings.

4. The Regional Government of Galicia, the Miño-Sil Hydrographic Confederation and the Municipal Councils of Os Blancos and Trasmiras are ordered to immediately adopt all necessary measures to guarantee the supply of clean, safe drinking water free from microorganisms and chemical substances that pose a threat to human health, in order to restore the full enjoyment of their human right to water.

5. Order the defendant administrations to compensate each of my clients with a monthly amount of one thousand euros from the date of filing of the initial complaint with the aforementioned administrations until the definitive cessation of the interference with the fundamental rights invoked.

6. Order the defendant administrations to pay the costs incurred in the present proceedings.

SECOND. -The defendant administrations (state, regional and local) responded to the claim, setting out their views on the grounds put forward by the appellant and opposing the claim.

They request that a judgment be handed down dismissing the plaintiff's claims, with express imposition of costs.

The Public Prosecutor's Office responded to the claim, setting out its views on the grounds put forward by the appellant requesting that the claim be upheld on the grounds that the appellants' fundamental rights had been violated.

The proceedings were admitted for examination, after which conclusions were drawn.

THIRD. - Once the parties had completed the conclusions, the case was left for deliberation, voting and ruling, which took place on 10 July 2025, in accordance with the legal formalities relating to the procedure.

The judge who delivered this ruling is Mr. José Antonio Landelino, who expresses the opinion of the Section.

LEGAL GROUNDS

FIRST. - *Statement of the issue in dispute.*

The following are contested in these proceedings: the violation of certain fundamental rights of my clients, namely the right to life (Article 2 of the European Convention on Human Rights, hereinafter ECHR, and Article 15 of the Spanish Constitution, hereinafter CE), the prohibition of torture and degrading treatment (Articles 3 of the ECHR and 15 of the CE), the right to private and family life and to the home (Articles 8 of the ECHR and 18 of the CE) and the protection of property (Article 1 of Protocol 1 of the ECHR and Article 33 of the EC), as well as the right to enjoy an environment suitable for personal development, connected with the violation of the right to private and family life (Article 45 of the EC in conjunction with Articles 18 of the EC and 8 of the ECHR).

Ms María Milagros, Mr Luis Miguel, Mr Pedro Enrique, Mr Ovidio, Ms Coral, Ms Amalia and Mr [redacted] are bringing this action before this *Court as holders of the aforementioned fundamental rights, as they reside or have resided in the town of As Conchas.*

The As Conchas Neighbourhood Association and the Organisation of Consumers and Users (hereinafter CECU) act on behalf of the rights of those affected who live or have lived in the town of As Conchas, as well as consumers of water supplies in the regions of A Limia and Baixa Limia.

SECOND. - *The following is proven by the administrative and documentary file provided:* a.- By Ms María Milagros Lugar As Conchas NUM002, Lobeira, Mr Luis Miguel Lugar As Conchas NUM003, Lobeira, Mr Pedro Enrique DIRECCION001 NUM003, Lobeira, Mr. Ovidio Lugar As Conchas NUM004, Lobeira, Ms. Coral Lugar As Conchas NUM004, Lobeira, Ms. Amalia Lugar As Conchas NUM004, Lobeira, Mr. Alejandro Lugar As Conchas NUM004, Lobeira, ASOCIACIÓN DE VECIÑOS AS CONCHAS (AS CONCHAS NEIGHBOURHOOD ASSOCIATION), identified with Tax ID NUM005, with registered address at As Conchas 26, 32897 Lobeira, Ourense, and registered in the Register of Associations under number 1995/1595-1, and on its behalf its President, Mr. Luis Miguel, and the FEDERATION OF CONSUMERS AND USERS CECU, with Tax ID NUM006, address at CALLE000, NUM007, 1º, 103 - 28013 Madrid andregistered under number 9in the Register

The Regional Association of Consumer and User Associations (REACU), represented by its President, Ms Ana María Echenique Calvo, submitted a letter dated 29 November 2024 to the Regional Government of Galicia requesting:

1. Recognise the existence of a violation of the fundamental rights cited in this document; that is, the right to life and physical and moral integrity (Article 15 of the Spanish Constitution), the right to privacy (Article 18.1 of the Spanish Constitution) and the inviolability of the home (Article 18.2 of the Spanish Constitution), all of them in relation to the right to health protection (Article 43.1 of the Spanish Constitution) and to the enjoyment of a healthy environment appropriate to the needs of individuals (Article 45 of the Spanish Constitution), as well as the corresponding violation of the rights recognised in Articles 2, 3 and 8.1 of the European Convention on Human Rights.

2. Immediately adopt all necessary measures to halt the environmental degradation of the regions of A Limia and Baixa Limia, as well as the As Conchas reservoir and its surroundings (and, significantly, the odours and toxins emanating from it), in order to restore to the complainants the full enjoyment of the fundamental rights whose protection is sought, including, by way of example and without limitation:

The approval of a specific moratorium on the processing and granting of new integrated environmental authorisations or any other authorisation for the establishment of pig, cattle or poultry farms or for the expansion of existing farms in the province of Ourense or in the regions of A Limia and Baixa Limia, at least until the environmental degradation has been reversed.

- The declaration as nitrate pollution sensitive areas of at the three bodies of surface water located in the Limia River in Porto Alto, in the Nocedo River in Rebordechá, both in the municipality of Xinzo, and in the Lagoa Canal in Vilar de Santos, and the immediate implementation of appropriate action programmes and codes of good agricultural practice.

- The adoption of an environmental inspection programme that provides for inspection visits to all livestock facilities in the districts of A Limia and Baixa Limia within a maximum period of six months (Article 23 of Royal Decree-Law 1/2016 of 16 December).

- The initiation of ex officio review proceedings of the Integrated Environmental Authorisations granted to livestock facilities in the regions of A Limia and Baixa Limia due to the pollution caused by their operation (Art. 26.4 a) RDLeg 1/2016 of 16 December).

- The promotion of any studies and programmes necessary to determine the extent of the reported environmental pollution and the establishment of programmes of measures to tackle it immediately, including epidemiological studies to observe the frequency and distribution of diseases associated with environmental pollution in the districts of A Limia and Baixa Limia.

To compensate the individual claimants with the monthly sum of one thousand euros from the date of submission of this document until the definitive cessation of the interference with the fundamental rights invoked. b.- By Ms María Milagros Lugar As Conchas NUM002, Lobeira, Mr Luis Miguel Lugar As Conchas NUM003, Lobeira, Ms Pedro Enrique DIRECCION001 NUM003, Lobeira, Mr Ovidio Lugar As Conchas NUM004, Lobeira, Ms Coral Lugar As Conchas NUM004, Lobeira, Ms Amalia Lugar As Conchas NUM004, Lobeira, Mr Alejandro Lugar As Conchas NUM004, Lobeira, ASOCIACIÓN DE VECIÑOS AS CONCHAS (AS CONCHAS NEIGHBOURHOOD ASSOCIATION), identified with Tax ID NUM005, with registered address at As Conchas 26, 32897 Lobeira, Ourense, and registered in the Register of Associations under number 1995/1595-1, and on its behalf its President, Mr. Luis Miguel, and the FEDERATION OF CONSUMERS AND USERS CECU, with Tax ID NUM006, address at CALLE000, NUM007, 1º, 103 - 28013
Madrid and registered under number 9 in the State Register of Consumer and User Associations (REACU), and on its behalf, its President, Ms Ana María Echenique Calvo, appeared before the Miño Sil Hydrographic Confederation (CHMS) with a letter dated 29 November 2024 requesting:

1. Recognise the existence of a violation of the fundamental rights cited in this document; that is, the right to life and physical and moral integrity (Article 15 of the Spanish Constitution), the right to privacy (Article 18.1 of the Spanish Constitution) and the inviolability of the home (Article 18.2 of the Spanish Constitution), all of them in relation to the right to health protection (Article 43.1 of the Spanish Constitution) and to the enjoyment of a healthy environment appropriate to the needs of individuals (Article 45 of the Spanish Constitution), as well as the corresponding violation of the rights recognised in Articles 2, 3 and 8.1 of the European Convention on Human Rights.

2. Immediately adopt all necessary measures to halt the environmental degradation of the regions of A Limia and Baixa Limia, as well as the As Conchas reservoir and its surroundings (and, significantly, the odours and toxins emanating from it) in order to restore to the complainants the full enjoyment of the fundamental rights whose protection is sought, including, but not limited to:

Strengthening the control of discharges in the Limia basin:

- Carry out regular inspections of intensive livestock farms to verify compliance with discharge authorisations, ensuring that the pollution limits established by regulations are not exceeded.

- Initiate appropriate disciplinary proceedings against the owners of facilities that discharge liquid or solid waste, such as slurry and chicken manure, in quantities that exceed legal standards or fail to comply with the requirements established in their licences.

Management of slurry and livestock waste

- Require the implementation of slurry management systems that minimise groundwater and surface water pollution.

- Promote the use of agricultural fertilisation techniques that reduce nitrate and phosphorus pollution in soil and water bodies, in line with the Nitrates Directive.

Identification and mitigation in vulnerable areas

- Establish the necessary institutional dialogue with the regional administration for the immediate designation of Vulnerable Areas to nitrate pollution in particularly affected areas, such as those near the As Conchas reservoir.

Water quality monitoring

- Increase the network of water quality control and monitoring points in areas affected by intensive livestock farming, including regular analyses of nitrates, nitrites, phosphorus, antibiotics and other pollutants.

- Publish regular reports on the state of the waters in the basin, ensuring transparency and providing information to both the public and the competent authorities.

Comprehensive studies

- Require comprehensive environmental impact studies for new applications for intensive livestock farming in the area, ensuring that potential impacts on water resources and adjacent ecosystems are assessed and minimised.

- Review existing authorisations to ensure that current conditions are compatible with current environmental regulations and the capacities of the local ecosystem.

Precautionary suspension of new authorisations

- In collaboration with local and regional authorities, suspend the granting of new licences for intensive farms in areas where studies indicate that water resources cannot withstand the additional pollution load.

- Ensure that this suspension remains in place until the implementation of a comprehensive plan that ensures the sustainability of agricultural and livestock activities.

Review of existing authorisations

- Require the Regional Government of Galicia, as the environmental authority, to initiate an ex officio review of the Integrated Environmental Authorisations granted to livestock facilities in the districts of A Limia and Baixa Limia due to evident circumstances that justify this in view of the pollution caused to public water resources by their operation (Art. 26.4 d) RDLeg 1/2016 of 16.12).

Promotion of good practices

- Develop training and awareness programmes aimed at livestock farm owners, promoting the adoption of practices that reduce the environmental impact of their activity.

- Encourage, in collaboration with other administrations, the transition to sustainable and organic livestock farming models.

Inter-institutional collaboration

- Coordinate efforts with regional and municipal administrations, as well as with civil and scientific organisations, to develop and implement comprehensive plans for decontamination and water resource management.

- Actively participate in joint working groups to ensure a unified and effective response to the problem of pollution caused by livestock activities.

Transparency and citizen participation

- Ensure that citizens have access to information on the state of the water and the actions taken by the CHMS.

- Encourage citizen participation in identifying local problems and monitoring water quality.

3. To compensate them with the monthly amount of one thousand euros from the date of submission of this document until the definitive cessation of the interference with the fundamental rights invoked. c.- By Ms María Milagros Lugar As Conchas NUM002, Lobeira, Mr Luis Miguel Lugar As Conchas NUM003, Lobeira, Mr Pedro Enrique DIRECCION001 NUM003, Lobeira, Mr Ovidio Lugar As Conchas NUM004, Lobeira, Ms Coral Lugar As Conchas NUM004, Lobeira, Ms Amalia Lugar As Conchas NUM004, Lobeira, Mr Alejandro Lugar As Conchas NUM004, Lobeira, ASOCIACIÓN DE VECIÑOS AS CONCHAS (Neighbourhood Association), identified with Tax ID NUM005, with registered address at As Conchas 26, 32897 Lobeira, Ourense, and registered in the Register of Associations under number 1995/1595-1, and on its behalf, its President, Mr. Luis Miguel, and the FEDERATION OF CONSUMERS AND USERS CECU, with Tax ID NUM006, address at CALLE000, NUM007, 1º, 103 - 28013 Madrid and registered under number 9 in the State Register of Consumer and User Associations REACU, represented by its President, Ms Ana María Echenique Calvo, appeared before the Town Council of Bande with a letter dated 29 November 2024 requesting:

Recognise the existence of a violation of the fundamental rights cited in this document; that is, the right to life and physical and moral integrity (Article 15 of the Spanish Constitution), the right to privacy (Article 18.1 of the Spanish Constitution) and the inviolability of the home (Article 18.2 of the Spanish Constitution), all of them in relation to the right to health protection (Article 43.1 of the Spanish Constitution) and to the enjoyment of a healthy environment appropriate to human needs (Article 45 of the Spanish Constitution), as well as the corresponding violation of the rights recognised in Articles 2, 3 and 8.1 of the European Convention on Human Rights. 2. Immediately adopt all necessary measures to halt the environmental degradation of the Limia river basin in order to restore the full enjoyment of the fundamental rights whose protection is sought, including, by way of example and without limitation:

The adoption of a specific moratorium on the processing and granting of new licences and authorisations or any other authorisation for the establishment of pig, cattle
or poultry farms or to expand the capacity of existing ones in the municipality, at least until the environmental degradation has been reversed.

The promotion of any studies and programmes necessary to determine the extent of the reported environmental pollution and the establishment of programmes of measures to tackle it immediately, including epidemiological studies to observe the frequency and distribution of diseases associated with environmental pollution in the Baixa Limia region.

The establishment of effective mechanisms to prohibit the use of water from the As Conchas reservoir for bathing, fishing and/or recreational activities in the event that it is unsuitable due to contamination by microcystins and bacteria, installing visible signage, closing bathing areas and disseminating this information through official and local media.

The establishment of a permanent monitoring system for drinking water quality, including control of nitrate and nitrite parameters in the distribution network.

Regular checks on the quality of water from wells used for human consumption in homes.

Timely, clear and direct information to the population on any incident that may compromise drinking water quality, ensuring the right to information and health protection.

The establishment of alternative supply mechanisms, such as the use of tanker trucks, in the event that the quality of drinking water is compromised, guaranteeing access to this basic resource.

The establishment, where appropriate, of coordination mechanisms with the Regional Government of Galicia and the Miño-Sil Hydrographic Confederation (CHMS) to carry out water quality analyses and adopt corrective measures in the event of contamination.

3. To compensate them with the monthly amount of one thousand euros from the date of submission of this document until the definitive cessation of the interference with the fundamental rights invoked. d.- By Ms María Milagros Lugar As Conchas NUM002, Lobeira, Mr Luis Miguel Lugar As Conchas NUM003, Lobeira, Mr

Pedro Enrique ADDRESS001 NUM003, Lobeira, Mr Ovidio Lugar As Conchas NUM004, Lobeira, Ms Coral Lugar As Conchas NUM004, Lobeira, Ms Amalia Lugar As Conchas NUM004, Lobeira, Mr Alejandro Lugar As Conchas NUM004, Lobeira, ASOCIACIÓN DE VECIÑOS AS CONCHAS, identified with Tax ID NUM005, with registered address at As Conchas 26, 32897 Lobeira, Ourense, and registered in the Register of Associations under number 1995/1595-1, and on its behalf, its President, Mr. Luis Miguel, and the FEDERATION OF CONSUMERS AND USERS CECU, with Tax ID NUM006, address at CALLE000, NUM007, 1º, 103 - 28013 Madrid, and registered under number 9 in the State Register of Consumer and User Associations REACU, represented by its President, Ms Ana María Echenique Calvo, appeared before the Lobeira Town Council on 29 November 2024 with a letter requesting:

Recognise the existence of a violation of the fundamental rights cited in this document; that is, the right to life and physical and moral integrity (Article 15 of the Spanish Constitution), the right to privacy (Article 18.1 of the Spanish Constitution) and the inviolability of the home (Article 18.2 of the Spanish Constitution), all of them in relation to the right to health protection (Article 43.1 of the Spanish Constitution) and to the enjoyment of a healthy environment appropriate to human needs (Article 45 of the Spanish Constitution), as well as the corresponding violation of the rights recognised in Articles 2, 3 and 8.1 of the European Convention on Human Rights. 2. Immediately adopt all necessary measures to halt the environmental degradation of the Limia river basin in order to restore the full enjoyment of the fundamental rights whose protection is sought, including, by way of example and without limitation:

The adoption of a specific moratorium on the processing and granting of new licences and authorisations or any other authorisation for the establishment of pig, cattle or poultry farms or to expand the capacity of existing ones in the municipality, at least until the environmental degradation has been reversed.

The promotion of any studies and programmes necessary to determine the extent of the reported environmental pollution and the establishment of programmes of measures to tackle it immediately, including epidemiological studies to observe the frequency and distribution of diseases associated with environmental pollution in the Baixa Limia region.

The establishment of effective mechanisms to prohibit the use of water from the As Conchas reservoir for bathing, fishing and/or recreational activities in the event that it is unsuitable due to contamination by microcystins and bacteria, installing visible signage, closing bathing areas and disseminating this information through official and local media.

The establishment of a permanent monitoring system for drinking water quality, including control of nitrate and nitrite parameters in the distribution network.

Regular checks on the quality of water from wells used for human consumption in homes.

Timely, clear and direct information to the population on any incident that may compromise drinking water quality, ensuring the right to information and health protection.

The establishment of alternative supply mechanisms, such as the use of tanker trucks, in the event that the quality of drinking water is compromised, guaranteeing access to this basic resource.

The establishment, where appropriate, of coordination mechanisms with the Regional Government of Galicia and the Miño-Sil Hydrographic Confederation (CHMS) to carry out water quality analyses and adopt corrective measures in the event of contamination.

3. To compensate them with the monthly amount of one thousand euros from the date of submission of this document until the definitive cessation of the interference with the fundamental rights invoked. e.- By Ms María Milagros Lugar As Conchas NUM002, Lobeira, Mr Luis Miguel Lugar As Conchas NUM003, Lobeira, Pedro Enrique DIRECCION001 NUM003, Lobeira, Mr Ovidio Lugar As Conchas NUM004, Lobeira, Ms Coral Lugar As Conchas NUM004, Lobeira, Ms Amalia Lugar As Conchas NUM004, Lobeira, Mr Alejandro Lugar As Conchas NUM004, Lobeira, ASOCIACIÓN DE VECIÑOS AS CONCHAS (AS CONCHAS NEIGHBOURHOOD ASSOCIATION), identified with Tax ID NUM005, with registered address at As Conchas 26, 32897 Lobeira, Ourense, and registered in the Register of Associations under number 1995/1595-1, and on its behalf, its President, Mr. Luis Miguel, and the FEDERATION OF CONSUMERS AND USERS CECU, with Tax ID NUM006, address at CALLE000, NUM007, 1º, 103 - 28013 Madrid and registered under number 9 in the State Register of Consumer and User Associations REACU, represented by its President, Ms Ana María Echenique Calvo, appeared before the Town Council of Muiños with a letter dated 29 November 2024 requesting:

Recognise the existence of a violation of the fundamental rights cited in this document; that is, the right to life and physical and moral integrity (Article 15 of the Spanish Constitution), the right to privacy (Article 18.1 of the Spanish Constitution) and the inviolability

of the home (Article 18.2 of the Spanish Constitution), all of them in relation to the right to health protection (Article 43.1 of the Spanish Constitution) and to the enjoyment of a healthy environment appropriate to the needs of individuals (Article 45 of the Spanish Constitution), as well as the corresponding violation of the rights recognised in Articles 2, 3 and 8.1 of the European Convention on Human Rights. 2. To immediately adopt all necessary measures to halt the environmental degradation of the Limia river basin in order to restore the full enjoyment of the fundamental rights whose protection is sought, including, by way of example and without limitation:

The adoption of a specific moratorium on the processing and granting of new licences and authorisations or any other authorisation for the establishment of pig, cattle
or poultry farms or to expand the capacity of existing ones in the municipality, at least until the environmental degradation has been reversed.

The promotion of any studies and programmes necessary to determine the extent of the reported environmental pollution and the establishment of programmes of measures to tackle it immediately, including epidemiological studies to observe the frequency and distribution of diseases associated with environmental pollution in the Baixa Limia region.

The establishment of effective mechanisms to prohibit the use of water from the As Conchas reservoir for bathing, fishing and/or recreational activities in the event that it is unsuitable due to contamination by microcystins and bacteria, installing visible signage, closing bathing areas and disseminating this information through official and local media.

The establishment of a permanent monitoring system for drinking water quality, including control of nitrate and nitrite parameters in the distribution network.

Regular checks on the quality of water from wells used for human consumption in homes.

Timely, clear and direct information to the population on any incident that may compromise drinking water quality, ensuring the right to information and health protection.

The establishment of alternative supply mechanisms, such as the use of tanker trucks, in the event that the quality of drinking water is compromised, guaranteeing access to this basic resource.

The establishment, where appropriate, of coordination mechanisms with the Regional Government of Galicia and the Miño-Sil Hydrographic Confederation (CHMS) to carry out water quality analyses and adopt corrective measures in the event of contamination.

3. To compensate them with the monthly amount of one thousand euros from the date of submission of this document until the definitive cessation of the interference with the fundamental rights invoked. f.- By the FEDERATION OF CONSUMERS AND USERS CECU, with Tax Identification Number

NUM006, with registered address at CALLE000, NUM007, 1º, 103 - 28013

Madrid and registered under number 9 in the State Register of Consumer and User Associations REACU, and on its behalf, its President, Ms Ana María Echenique Calvo, appeared before the Os Blancos Town Council with a letter dated 29 November 2024 requesting:

Recognise the existence of a violation of the fundamental rights cited in this document; that is, the right to life and physical and moral integrity (Article 15 of the Spanish Constitution), the right to privacy (Article 18.1 of the Spanish Constitution) and the inviolability of the home (Article 18.2 of the Spanish Constitution), all of them in relation to the right to health protection (Article 43.1 of the Spanish Constitution) and to the enjoyment of a healthy environment appropriate to human needs (Article 45 of the Spanish Constitution), as well as the corresponding violation of the rights recognised in Articles 2, 3 and 8.1 of the European Convention on Human Rights. 2. Immediately adopt all necessary measures to halt the environmental degradation of the Limia river basin in order to restore the full enjoyment of the fundamental rights whose protection is sought, including, by way of example and without limitation:

The adoption of a specific moratorium on the processing and granting of new licences and authorisations or any other authorisation for the establishment of pig, cattle
or poultry farms or to expand the capacity of existing ones in the municipality, at least until the environmental degradation has been reversed.

The promotion of any studies and programmes necessary to determine the extent of the reported environmental pollution and the establishment of programmes of measures to tackle it immediately, including epidemiological studies to observe the frequency and distribution of diseases associated with environmental pollution in the Baixa Limia region.

The establishment of effective mechanisms to prohibit the use of water from the As Conchas reservoir for bathing, fishing and/or recreational activities in the event that it is unsuitable due to contamination by microcystins and bacteria, installing visible signage, closing bathing areas and disseminating this information through official and local media.

The establishment of a permanent monitoring system for drinking water quality, including control of nitrate and nitrite parameters in the distribution network.

Regular checks on the quality of water from wells used for human consumption in homes.

Timely, clear and direct information to the population on any incident that may compromise drinking water quality, ensuring the right to information and health protection.

The establishment of alternative supply mechanisms, such as the use of tanker trucks, in the event that the quality of drinking water is compromised, guaranteeing access to this basic resource.

The establishment, where appropriate, of coordination mechanisms with the Regional Government of Galicia and the Miño-Sil Hydrographic Confederation (CHMS) to carry out water quality analyses and adopt corrective measures in the event of contamination.

3. To compensate them with the monthly amount of one thousand euros from the date of submission of this document until the definitive cessation of the interference with the fundamental rights invoked. g.- By the FEDERATION OF CONSUMERS AND USERS CECU, with Tax Identification Number

NUM006, with registered address at CALLE000, NUM007, 1º, 103 - 28013

Madrid and registered under number 9 in the State Register of Consumer and User Associations (REACU), and on its behalf, its President, Ms Ana María Echenique Calvo, appeared before the Trasmiras Town Council with a letter dated 29 November 2024 requesting:

Recognise the existence of a violation of the fundamental rights cited in this document; that is, the right to life and physical and moral integrity (Article 15 of the Spanish Constitution), the right to privacy (Article 18.1 of the Spanish Constitution) and the inviolability of the home (Article 18.2 of the Spanish Constitution), all of them in relation to the right to health protection (Article 43.1 of the Spanish Constitution) and to the enjoyment of a healthy environment appropriate to human needs (Article 45 of the Spanish Constitution), as well as the corresponding violation of the rights recognised in Articles 2, 3 and 8.1 of the European Convention on Human Rights. 2. Immediately adopt all necessary measures to halt the environmental degradation of the Limia river basin in order to restore the full enjoyment of the fundamental rights whose protection is sought, including, by way of example and without limitation:

The adoption of a specific moratorium on the processing and granting of new licences and authorisations or any other authorisation for the establishment of pig, cattle
or poultry farms or to expand the capacity of existing ones in the municipality, at least until the environmental degradation has been reversed.

The promotion of any studies and programmes necessary to determine the extent of the reported environmental pollution and the establishment of programmes of measures to tackle it immediately, including epidemiological studies to observe the frequency and distribution of diseases associated with environmental pollution in the Baixa Limia region.

The establishment of effective mechanisms to prohibit the use of water from the As Conchas reservoir for bathing, fishing and/or recreational activities in the event that it is unsuitable due to contamination by microcystins and bacteria, installing visible signage, closing bathing areas and disseminating this information through official and local media.

The establishment of a permanent monitoring system for drinking water quality, including control of nitrate and nitrite parameters in the distribution network.

Regular checks on the quality of water from wells used for human consumption in homes.

Timely, clear and direct information to the population on any incident that may compromise drinking water quality, ensuring the right to information and health protection.

The establishment of alternative supply mechanisms, such as the use of tanker trucks, in the event that the quality of drinking water is compromised, guaranteeing access to this basic resource.

The establishment, where appropriate, of coordination mechanisms with the Regional Government of Galicia and the Miño-Sil Hydrographic Confederation (CHMS) to carry out water quality analyses and adopt corrective measures in the event of contamination.

3. To compensate them with the monthly amount of one thousand euros from the date of submission of this document until the definitive cessation of the interference with the fundamental rights invoked. h.- By Ms/Luis Miguel, with ID number , acting[redacted]ent of the ASOCIACIÓN DE VECINOS DE AS CONCHAS (Neighbourhood Association of As Conchas), with Tax ID number NUM005, residing at Lg/. As Conchas no. 26, Localidad de Lobeira, Province of Ourense, Postal Code 32897; before the SEPRONA Command, I filed a complaint on 24 August 2002 with the Civil Guard Seprona service against the SECRETARY OF THE ENVIRONMENT of the MINISTRY OF

ECOLOGICAL TRANSITION AND DEMOGRAPHIC CHALLENGE, Mr Saturnino and his predecessors, against the DIRECTOR GENERAL OF WATER of the MINISTRY OF ECOLOGICAL TRANSITION AND DEMOGRAPHIC CHALLENGE, Mr Olegario and his
predecessors, against the PRESIDENT OF THE MIÑO-SIL HYDROGRAPHIC CONFEDERATION, Mr Severino and his predecessors, against the REGIONAL MINISTER FOR THE ENVIRONMENT, Ms Remedios and her predecessors, and against the COMPANY NATURGY IBERIA S.A. for the crime of environmental malfeasance by continued omission and a crime against public health, in which the following facts were reported: "FIRST.- Since 2011, there have been various episodes of cyanobacterial contamination in the Conchas reservoir as a whole and specifically on the beaches of the municipalities of Bande PLAYA000 PLAYA001, and more severely in the municipality of Lobeira, specifically in the village of Las Conchas, where the dam of this reservoir is located. Since 2011 and in subsequent years, the situation of the reservoir has worsened year after year, and in recent years it has even reached the maximum alert level for cyanobacteria, with bathing being prohibited by the Regional Ministry of Health (health reports are attached to this document).

According to several experts, this situation is caused by the large amount of organic matter (mainly pig and chicken manure) and, above all, by the stable isotope analysis accompanying this complaint. Faced with this situation, the authorities have remained completely passive and the reservoir has continued to deteriorate year after year, reaching an intolerable situation this year in the village of Las Conchas, with sulphuric acid pollution, which is harmful to health and, above all, violates a fundamental right such as the enjoyment of private property.(…)" i.- They also refer to the existence of various facts reported to the administration/Public Prosecutor's Office/Seprona over time, such as:

-Complaint dated 13 July 2018 filed with the Public Prosecutor's Office of Don Cándido, referring to seeing a tanker dumping pig slurry in a single spot, and when asked how much it cost and how to obtain the slurry, the driver gave him a phone number, saying it was free and that a tanker would be brought to him shortly.

-Complaint filed by Valentina on 22 January 2019 with the Ourense Environmental Prosecutor's Office regarding the presence of farm slurry piled up, referring to the existence of a pipe covered with gorse and connected to a huge well, and that huge trucks had been seen dumping the slurry through the pipe.

-Complaint filed by Mr Luis Carlos with the Public Prosecutor's Office of the Provincial Court of Ourense on 26 March 2019, referring to a bad smell in the water collected for domestic consumption at ADDRESS002. Analysis of the water revealed the presence of indicators of faecal contamination (E. coli and enterococci) in relation to the ineffective application and management of livestock waste by a pig farm belonging to the company COREN, which is responsible for the production of pig feed and the production and sale of pig feed, as well as the production and sale of livestock feed, the production and sale of animal feed, the production and sale of animal feed additives, the production and sale of animal feed supplements, the production and sale of animal feed by-products,Coli and enterococci, referring to the ineffective application and management of livestock waste by a pig farm belonging to the COREN company.

-Photographs from the Local Police of the Municipality of Celanova showing slurry and liming using a sprinkler hose near a water source.

-Complaint to SEPRONA dated 26 June 2023 by the President of the As Conchas Neighbourhood Association regarding episodes of cyanobacterial contamination since 2011 in the Conchas reservoir.

-Complaint to SEPRONA dated 3 October 2022, extending the complaint dated 24 August 2022, by the President of the As Conchas Neighbourhood Association regarding episodes of cyanobacteria contamination since 2011 in the Conchas reservoir, which extends the complaint.

-Complaint against the Secretary of the Environment and the head of the Regional Ministry of Health of the Regional Government of Galicia dated 4 July 2023 for pollution since 2011 in the As Conchas reservoir.

-Letter addressed to Seprona by Mr Simón regarding access to official documents (police reports) dated 29 June 2018, in which the agency replies that: "However, administrative proceedings have been carried out and forwarded to the Regional Headquarters of the Department of Rural Affairs of the Regional Government of Galicia in Ourense and to the Miño Sil Hydrographic Confederation, authorities which, in principle, should be familiar with the matter, and to which you should address your request (in reference to

Flooded by slurry (faecal sludge) from pig, cow and poultry farms in the region of A Limia, causing widespread agricultural contamination with catastrophic results. **THIRD.-** *The Court's ruling.*

1.- ***FORMAL ISSUES RAISED REGARDING LEGITIMACY***

/INADMISSIBILITY

The Regional Government of Galicia argues that the residents' association of As Conchas and the Federation of Consumers and Users lack standing to bring the present proceedings in view of their status as associations in contentious-administrative proceedings, given the special nature of these proceedings and the protection sought in relation to the fundamental rights enshrined in Articles 15 and 18 of the Constitution. Therefore, the residents' association, in a position to take action with the plaintiffs and individuals, falls within the scope of representation that corresponds to it, since judicial protection is eminently personal in nature.

With regard to the standing of the AAVV de As Conchas, an association registered to defend the quality of life of the inhabitants of that area, we must remember that it requires an essential connection between the subject and the object of the claim that can be inferred from the proceedings, which translates into a benefit or advantage that would be achieved with a favourable outcome or the harm that would be suffered in the opposite case, which, according to the case law of the Supreme Court, must be real and certain.

We understand that this lack of standing does not exist, given that the residents of the As Conchas reservoir suffer serious, credible and direct harm affecting them both due to the smell and the presence of cyanobacteria, hence it is entirely legitimate to request the adoption of the necessary measures to balance the environmental situation in order to repair the damage caused, a point which, in view of the various documents submitted by the residents' association, leaves no doubt as to the harm caused by the environmental situation of the waters surrounding the village.

The defence by the residents' association of As Conchas of the environmental situation arising from the contamination of the reservoir means that its presence in this litigation must necessarily be accepted, since this situation has not ceased and is in fact increasing in view of the various assessments made in the reports, in particular those of the Hydrographic Confederation.

In fact, this is the evolutionary criterion of both the various directives recently published within the European Community and the European Court of Human Rights, which avoids any excessively formalistic position that prevents groups from defending environmental rights, whether they are direct or indirect victims, all with the legitimate interest of ending harmful conduct.

Secondly, with regard to the CECU, it is argued that access to drinking water would be excluded from the scope of consumer law, secondly that the defendant's status as a public administration would prevent it from being included in the concept of entrepreneur under consumer and user legislation, and thirdly that the highly personal nature of the fundamental rights invoked would prevent legal action from being taken as the defendant is not a direct victim.

Article 7.3 of Organic Law 6/1985, of 1 July, on the Judiciary: "The courts and tribunals shall protect legitimate rights and interests, both individual and collective, without in any case giving rise to a lack of defence. For the defence of the latter, the legitimacy of corporations, associations and groups that are affected or legally authorised to defend and promote them shall be recognised."

With regard to the first question, it cannot be denied that drinking water constitutes a consumer good and, consequently, that an association may exercise the corresponding rights for its protection if it is threatened. This is recognised in Article 2(3) of Directive 2011/83/EU of 25 October on consumer rights, and consumption is included within the scope of application in Article 3(1).

Judgment 4150/2024, of 9 July, of the Supreme Court indicates that the requirement of this "legitimate interest" to seek protection of rights before the competent court establishes an intermediate formula between popular action and a strict scope of standing. However, it was the Constitutional Court that extended this "legitimate interest" to legal persons who have a legally protectable interest in the preservation of the rights and freedoms of other persons, given, of course, their relationship with those rights or with the holders of those rights.

Directive 2020/2184 of 16 December 2020 on the quality of water intended for human consumption considers water to be a consumer good regardless of its origin, as stated in Article 3, which defines water for human consumption as all water, whether in its original state or after treatment, used for drinking, cooking, food preparation and other domestic purposes in both public and private premises, regardless of its origin and whether it is supplied through a distribution network, from a cistern or in bottles or other containers, including spring water.

or private premises, whatever its origin and regardless of whether it is supplied through a distribution network, a cistern or packaged in bottles or other containers, including spring water.

With regard to the consideration that public administrations do not have the concept of entrepreneur, it should be noted that the concept of entrepreneur, as provided for in Article 4 of Royal Legislative Decree 1 of 16 November 2007, refers to any natural or legal person, whether private or public, and therefore does not exclude legal persons governed by public law. in any case, we do not find any obstacle in this regard, since insofar as the supply and protection of water falls within the remit of a public administration, the latter must be responsible for the quality of that water to the various consumers of the same, given that in most cases it is even subject to payment for the service provided. With regard to whether an association such as the CECU can defend fundamental consumer rights, given that these are highly personal rights, we must point out that such defence is recognised by Royal Legislative Decree 1 of 16 November 2007, which approves the revised text of the General Law for the Protection of Consumers and Users, which establishes as basic rights of consumers and users and of consumer and user groups the representation of their interests through legally constituted associations, federations or federations of consumers and users, without it being necessary to prove that such representation is not included in their statutory purposes. groups, federations or federations of consumers and users that are legally constituted, without it having been proven that such defence is not included within their statutory purposes.

In this regard, ruling 252/2000, of 30 October, of the Constitutional Court establishes that through the statutory purposes, the connection or link between the appellant associations and the subject matter of the lawsuit can and must be assessed and, therefore, the presence of the legitimate interest to which they would be entitled.

In any case, please refer to the judgment of the Grand Chamber of the European Court of Human Rights of 9 April 2024 in the case of Verein KlimaSeniorinnen Schweiz and others v. Switzerland.

It should be noted that Article 19(1)(b) of Law 29/1998 states that associations shall have standing when they are affected or are legally entitled to defend collective rights and interests.

The question of inadmissibility on the grounds that the activity is not susceptible to challenge is raised by the legal representative of the Miño Sil Hydrographic Confederation.

In this regard, we must reject this claim and reproduce the arguments of the order of 10 March 2025, as we must not forget that the Hydrographic Confederation is the basin organisation that exercises the Spanish part of the Miño Sil river basin district and the functions entrusted to these organisations by the Water Law, including water quality control, to which we must also add the appropriate measures to prevent discharges into these waters and thus their contamination.

With regard to the lack of passive legal standing of the defendant local councils, which simply refer to the fact that this is a substantive issue that will be assessed throughout this judgment, but we would like to point out that local councils have jurisdiction to take action against companies or public administrations that they believe are damaging the environment within their municipality (municipal area), and even more so when they have jurisdiction over water supply and related public services. we simply refer in this regard to Article 25 of Law 7 of 1985 regulating the bases of local government and Article 24(1) of Law 9 of 4 November 2010 on water in Galicia, with the consequent duty to protect the health and safety of those who live in or pass through the municipal area.

The questions of inadmissibility raised should be rejected.

*2**.-COMPETENCES of the defendant administrations in relation to their involvement in the present dispute.***

***With regard to the Hydrographic Confederation**: Water quality control is one of the functions assigned to river basin organisations under Article 24.2(e) of the revised Water Act, which establishes that quality objectives and programmes must be defined in accordance with hydrological planning.*

On 23 October 2000, Directive 2000/60/EC or the Water Framework Directive (WFD) was published, defining water planning and management and the obligations relating to its quality, both for surface water and groundwater. In the case of rivers, an ecosystem approach is taken, abandoning the traditional concept of water quality and instead treating rivers as integrated systems comprising not only water but also the biotic and abiotic elements that form an indivisible part of it, such as riparian vegetation, river connectivity and the biological communities that live in it, forming a river ecosystem. The intended use of the water is no longer so important; rather, the river must be in good ecological and chemical condition and, if this is not the case, a programme of measures must be established and implemented to achieve this within a reasonable time frame.

***With regard to the** Autonomous **Community of Galicia (Xunta de Galicia**: the Statute of Autonomy of Galicia (EAG), mainly in the following areas of competence provided for in that regulation: local government (Article 27.2, in conjunction with Article 49, relating to the financial supervision of local authorities); in matters of public works that are not legally classified as being of general interest to the State or whose execution or operation does not affect another autonomous community or province (Article 27.7 of the EAG); water use, canals and irrigation when the water flows entirely within the territory of the community (Article 27.12 of the EAG); groundwater (Article 27.14 of the EAG); additional rules on environmental protection (Article 27.30 of the EAG), and in the field of health (Article 33.1 of the EAG).*

***With regard to** local **councils**: Municipalities, in accordance with Article 25.2 c) of the Law Regulating Local Government, have their own powers, under the terms of State and Autonomous Community legislation, in the supply of drinking water to households and the disposal and treatment of waste water.*

Furthermore, Article 26.1 a) establishes that municipalities must, in all cases, provide the following services in all municipalities: domestic drinking water supply and sewerage.

Both Law 5/1997, of 22 July, on Local Administration in Galicia, and Law 9/2010, of 4 November, on Water in Galicia, attribute to municipalities powers in the area of water supply, sewerage and wastewater treatment, establishing as mandatory services to be provided by all municipalities, in line with basic legislation, domestic water supply and sewerage, as well as wastewater treatment in certain cases.

*3.- **BREACHES ALLEGED BY THE APPELLANTS:***

The appellants allege that:

***Firstly**, they have not taken adequate and effective measures to prevent and remedy the serious and persistent pollution of groundwater and surface water in the districts of A Limia and Baixa Limia, in the Limia river basin, particularly in the vicinity of the town of As Conchas, adjacent to the reservoir of the same name.*

***Secondly**, they have not remedied or prevented the impact on water, air and soil quality, which has resulted in serious damage and prevents my clients from enjoying their health, their homes and their private and/or family lives.*

*4.- **WATER POLLUTION BY NITRATES/CYANOBACTERIA. ORIGIN. CAUSE.***

The first issue that needs to be determined is whether there is water pollution, as claimed by the appellants, and its origin.

In the responses of the parties involved, there is implicit and explicit acknowledgement of water pollution, although they do not admit their own responsibility, as follows:

***a)** (implicit acknowledgement) According to the CHMS, "the CHMS scrupulously complies with its legal obligations, not those that the plaintiffs claim it has." On the other hand, it is striking that in a 215-page lawsuit, two pages (pages 112 and 113) are devoted to the resolution issued by the CHMS and the report attached to it, which details all the actions carried out by the basin organisation in the exercise of its powers, the exercise of which is being urged. It is also curious that the Confederation's inaction is upheld while referring to sampling, reports and actions carried out by the same. An example of this is the CEDEX report, issued at the request of the CHMS, which the plaintiff herself incorporates as documentary evidence as Document No. 5.*

***b)** (explicit acknowledgement classified as non-serious) By the Regional Government of Galicia: With regard to the seriousness of the situation, we consider that it should be the responsibility of the river basin authority, which is responsible for the control, monitoring and protection of public water resources in the region of A Limia, to justify whether there is indeed such a serious impact on water as we are led to believe or whether, on the contrary, the analysis carried out in the claim and expert reports is based on specific or seasonal data, or uses analysis criteria that may give rise to partial results. In view of the reports issued by the Miño-Sil Hydrographic Confederation in response to previous complaints made by the plaintiffs to this body, this appears to be the case, as the water quality analysis indicates a nitrate level below the legal limits for human consumption (50 mg/L). This is the conclusion of the report attached to its response: Specifically, there are 26 points in surface water bodies and 28 points in groundwater bodies, in addition to the 5 control points already mentioned in the As Conchas reservoir itself. The surface water monitoring network shows that the nitrate concentration does not usually exceed 20 mg/L, although an annual trend is observed in the*

control points, where maximum values are detected in the winter months (between 15 and 20 mg/L) and minimum values (below 5 mg/L) in the summer months, which is associated with rainfall and runoff from areas with agricultural and livestock activity, so that in winter nitrates are incorporated into surface water bodies from agricultural and livestock activity as a result of high rainfall, which has sometimes led to flooding of the A Limia plain.

c) *(explicit acknowledgement) By the Lobeiras Town Council: "At this point, it is surprising that the lawsuit is directed (in addition to the river basin authority and the Regional Government of Galicia) only against three of the five town councils that make up the district of A Baixa Limia1 (Muiños, Bande and Lobeira), which are also recipients of water from the Limia River, and only against two of the municipalities in the A Limia region (Os Blancos and Trasmiras) when, according to the Ministry's Resolution of 9 May 2022, the waters of the entire A Limia region have concentrations of nitrates and phosphates originating in the primary sector. Since it is in these municipalities where the sources of diffuse pollution are concentrated, it should be them who are required to adopt measures to mitigate its effects.*

d) *(explicit acknowledgement) By the Muiños Town Council: "The Ministry published the Resolution of 9 May 2022, which includes the Limia River in the As Conchas reservoir and the groundwater body of A Limia. On this basis, in accordance with Article 4 of Royal Decree 47/2022, the autonomous communities shall designate as vulnerable areas all known areas of their territory whose runoff flows into the affected waters and contributes, even minimally, to their pollution. This declaration has not yet been made by the competent authority (the Xunta de Galicia), therefore, at the time of signing this document, the Resolution of 12 April 2000 (DOG No. 74, of 14 April 2000) remains in force, declaring that there are no areas vulnerable to nitrate pollution in the Autonomous Community of Galicia. The Muiños Town Council has no jurisdiction in this matter.*

e) *(Explicit acknowledgement) By the Trasmiras Town Council: It is unclear how long it will take to respond. The samples were taken on 18 October 2024 by CHMS technicians, but the results were not forwarded by the Galician Regional Government to the town council until late in the morning of 12 November 2024.Attached as documents 1 to 3 are the official letter from the Regional Government of Galicia, the notification via the DEHÚ and the acknowledgement of receipt from the Trasmiras Town Council Registry. The Mayor was informed of this report on 13 November 2024. Attached as document 4 is the official record. On the same day, 13 November 2024, the Mayor issued a public notice prohibiting the consumption of drinking water, warning neighbouring communities and residents in general who consume water, either from neighbourhood supplies or private wells, to have the water analysed and informing the Regional Government of Galicia that the necessary measures are being taken to detect the source of contamination and solve the problem.*

A.-RELEVANT DOCUMENTS for subsequent decision-making: a.- TECHNICAL REPORT for the Ministry of Agriculture, Food and the Environment (State Secretariat for the Environment) Directorate-General for Water. Miño-Sil Hydrographic Confederation STUDY OF THE WATER QUALITY OF THE

AS CONCHAS RESERVOIR:

CEDEX code: 46-415-0-001 Madrid, October 2016 "7.

CONCLUSIONS

The As Conchas reservoir is a typically monomictic body of water. Towards the end of spring, once the reservoir has stratified with a marked thermocline, oxygen exchange between the deep and surface layers of the reservoir becomes difficult. The massive growth of phytoplankton in the surface layers and the decomposition of organic matter that settles in the deeper layers cause a progressive depletion of dissolved oxygen in the hypolimnetic zone, keeping the last 15-20 metres of the water column almost anoxic until the beginning of autumn, when lower temperatures and increased wind, rainfall and inflows to the reservoir cause the water column to mix again.

The depletion of hypolimnetic oxygen generates anoxic reducing conditions in the deepest metres of the water column, with a decrease in pH, favouring the reduction of metals present in the sediment, such as iron or manganese, to more soluble forms.

Similarly, the reduction of nitrates can lead to an increase in the concentration of ammonium at the bottom of the water column.

The results of the major ion analyses allow the reservoir to be characterised as having waters between sodium bicarbonate and sodium chloride.

In the historical data available on tributaries entering the reservoir, concentrations of nitrogen chemical forms are relatively homogeneous over time and space, with no significant seasonal variation observed.

no values indicating anomalous point source inputs or significant discharges. However, some tributaries have higher concentrations of N and P compounds than the rest. This is the case of stations TC04 and TC05(B), corresponding to the Limia and Cadós tributaries, respectively, which contribute a higher nutrient load due to their higher flows. However, there is no clear seasonal pattern in the concentrations detected, which could mean that the concentration of the loads is more related to inputs linked to possible human activities that vary irregularly over time or are occasional. In nitrogen compounds, nitrates are the most relevant form in terms of inputs. Significant values of this compound have been detected in practically all the tributaries monitored, which would reveal the importance of diffuse sources as the origin of nitrates at the reservoir inlets.

Based on data obtained by the CHMS during the period 2011-2015, the reservoir can be classified as eutrophic. Chlorophyll peaks occur during the summer and are usually due to significant cyanobacterial blooms, although during the summer of 2014 there was a fairly significant growth of green algae, which was repeated with less intensity in the summer of 2015. In spring, diatoms are the predominant algae in all years. Samples taken by CEDEX in 2015 (May and October) showed a significant increase in phytoplankton biomass from the dam towards the tail of the reservoir surface. This has not been recorded in other years (years for which there is little data from the tail area). Phytoplankton in October 2015 consisted mainly of cyanobacteria, diatoms, chlorophytes and dinoflagellates, with cyanobacteria and dinoflagellates increasing towards the tail of the reservoir. This gradient and increase in cyanobacteria in the tail was possibly related to a higher concentration of nutrients and stable conditions in the water column near the main inlet of the Limia River.

The most abundant cyanobacteria species during most of the time is Microcystis aeruginosa. In 2014 and 2015, Woronichinia naegeliana developed during late summer and autumn, exceeding Microcystis in cell numbers. During 2013, 2014 and 2015, Aphanizomenon flos-aquae developed, with cell numbers being more abundant in the last two years. As it is a potential producer of neurotoxins such as anatoxins and saxitoxins, and of cytotoxins such as cylindrospermopsin, it is recommended that the presence of this species be monitored. Other cyanobacterial species are less important. With this cyanobacterial composition, it can be said that the cyanotoxins expected to pose the greatest health risks in this reservoir are microcystins.

Cyanobacteria concentrations, mostly consisting of Microcystis aeruginosa, exceeded the WHO Alert Level I for water intended for drinking on numerous occasions. There were also eight dates on which the WHO Guideline Level I for bathing water was exceeded. Despite this, microcystins were only recorded above the quantification limit on two occasions, in low concentrations and in the sessonic fraction. The concentration never exceeded 1 u g / L , the level set in Spanish legislation for drinking water. In general, the concentrations of microcystins detected in this reservoir are low when compared to the concentrations of Microcystis recorded, so it seems that this is usually a strain that does not produce large amounts of toxin. Microcystis generally develops at times when there are no large inflows into the reservoir and the water level is falling. In the years when Microcystis developed most (2012 and 2013), higher concentrations of total phosphorus were recorded, but TP does not always increase with water inflows into the reservoir. The development of Microcystis is possibly the result of specific sources of contamination in space and/or time, and is not so much due to diffuse contamination of the basin that reaches the reservoir with water inflows after rainfall.

In surface sediment samples (top 20 cm), the same microcystin variants were mainly found as in the water, MC-dmRR and MC-RR, although a quantifiable value was also detected for the MC-YR variant.

The concentrations detected are particularly high in the dam area and on the beaches. Analysis of the surface sediment in the reservoir has revealed greater sedimentation of coarse materials of mineral origin in the tail areas of the reservoir and on the beaches, probably carried by the tributaries and not reaching the deepest area furthest from the dam. In contrast, almost twice as much organic matter was found in the dam area as in the other two areas of the reservoir. This is probably due to a lower content of coarse terrigenous materials (with higher density) that do not reach this area further away from the tributary inlets in suspension, as well as greater sedimentation of organic matter, both exogenous, from the basin, and endogenous, i.e. from planktonic organisms that settle when they die, and which contribute more biomass to this area of the reservoir due to the greater water column. In all three samples, a notable increase is observed from 20 cm below the surface, most likely related to a period of greater productivity in the water mass.

Significant increases in N and C have been detected at relatively shallow depths in the sediment in all three areas of the reservoir, coinciding with higher OM values detected at the same depths, which are possibly due to massive algal blooms (cyanobacteria) in recent years.

High concentrations of metals have been found throughout the sediment, with arsenic being particularly relevant. All forms generally decrease significantly in concentration from the dam to the tail of the reservoir. However, these concentrations can be explained to a large extent by a mainly natural origin related to the geology of the basin.

In order to assess the possibility of applying an ecological model to the management of the reservoir, an initial simulation of a one-dimensional physical model has been developed as a first approximation, with the aim of correctly simulating the hydrodynamics in the reservoir. However, with the historical data available, significant differences have been obtained between the simulations and the observations, probably due to deficiencies in these input data. In order to develop an accurate and robust three-dimensional hydrodynamic model, which can then be coupled to an ecological model with the aim of understanding the actual behaviour of cyanobacteria in the As Conchas reservoir and the dynamics of their blooms, it is necessary to have a minimum amount of accurate data on the characteristics of the reservoir and its environment, the nature, period and minimum frequency of which are specified in this report.

Based on the results obtained and analysed in this study, and in relation to the episodes of massive blooms of the cyanobacterium Microcystis in the As Conchas reservoir in recent years, it is highly likely that these blooms are caused by occasional significant inputs of nutrients into the reservoir, with a low probability of being detected in the existing periodic water quality controls due to their sporadic and unpredictable nature, as they are not linked to patterns or seasonal cycles in the hydrochemical dynamics of the reservoir. Although the values obtained for primary production and both internal and external nutrient loads in the reservoir correspond to a trophic level assignable to eutrophication, it appears that these cyanobacterial blooms develop under occasional circumstances of significant nutrient inputs linked to possible discharges. ***b.- NITRATE STUDY REPORT. LIMIA AREA (OURENSE)*** *On 18 October 2024, this basin organisation received a request for the analytical results of nitrates from Cándido, with address at A Carballal nº6, Rairiz de Veiga (Ourense), corresponding to the sampling of 25-09-2024 in the area of A Limia.*

On 3 September 2024, an email was received from Cándido with the results of nitrate measurements taken in situ at different points in the A Limia area, carried out as part of a citizen participation campaign in collaboration with Greenpeace. On 25 September 2024, this river basin organisation carried out sampling of surface and groundwater at different points in the Os Blancos and Xinzo de Limia (Ourense) municipal areas, the identification and location of which are shown in Table 1.

Table 1 - Location of sampling points. Campaign of 25/09/24 POINT NAME AND IDENTIFICATION TOWN COUNCIL

X (ETRS89-H29) Y (ETRS89-H29) P1 Fonte Vilar. Church of Perpetuo Socorro Vilar Os Blancos 604713 4650797 P2

Fonte Os Blancos. Rúa da Fonte Os Blancos 603496 4650344

P3 Fonte O Caño de Outeiro. Water above the Outeiro Os Blancos washhouse 602839

4650262 P4 Water supply from external tap, Casa da Cultura Os Blancos 603273 4650312

P5 Water supply at private residence near Casa da *Cultura Os Blancos - - P6*

Well at PARCELA000 in Limia 603346 4658343 P7 Tap at Autela petrol station

(1) Xinzo de Limia 606364 4659252

P8 Autela petrol station tap (2) Xinzo de Limia 606337 4659281

The concentrations obtained are shown in Table 2.

Table 2 - Nitrate results. Campaign of 25/09/24 POINT NAME NITRATES (mgNO3 -/l) P1 Fonte Vilar. Church of Perpetuo Socorro Vilar. 69.3

P2 Fonte Os Blancos. Rúa da Fonte 42.9

P3 Fonte O Caño de Outeiro. Water upstream of Outeiro wash house

80.7 P4 Water supply from external tap, Casa da Cultura 82.2

P5 Water supply at private residence near Casa da

Cultura 81.9

P6 Well in PLOT001 NUM008

P7 Autela petrol station tap (1) 11.0

P8 Autela petrol station tap (2) 43.0

This is provided for your information.

Ourense, 23 October 2024 THE HEAD OF SERVICE. ***c.-REPORT BY THE GALICIAN SOCIETY OF NATURAL HISTORY: DOCUMENT 12 ACCOMPANYING THE CLAIM.***

Origin of nitrate pollution at point CSIC-6

"The CSIC-6 sampling point in the Antela canal is located just 1 km downstream from the COREN livestock macro-complex in A Pedra Alta, consisting of 28 farms with a total capacity of 300,000 chickens and 5,000 pigs (annual production of 1,650,000 chickens and 15,000 pigs). With a livestock load of 2,250 UGM, this industrial livestock macro-facility alone is equivalent, in terms of excrement production, to a population of more than 46,000 people, i.e. 23 times the number of inhabitants of all the villages upstream of the CSIC-6 point and more than double the population of the entire A Limia plain. On the same plot of land is a slurry treatment plant called the "Environmental Technology Centre" (CTM), built in 2007 by the Galician Livestock Waste Society (created by COREN and Caixa Galicia) with an investment of 22 million euros. By burning natural gas supplied by a specially constructed pipeline, the CTM was capable of drying 100,000 tonnes of slurry and reducing it to 15,000 tonnes of organic fertiliser for agricultural use, while also producing electricity for sale. The economic viability of the CTM was contingent on the collection of premiums for electricity production in this type of plant and it closed in 2014 when these premiums disappeared (the CSIC analyses were carried out in the period 2012-2013)." (...) As in the previous case, a picture (aerial photos from SIGPAC, Ministry of Agriculture, Food and Environment) is worth a thousand words in explaining the origin of the pollution at sampling point CSIC-13, located in a sandy pond 400 m from a huge open-air chicken manure (chicken litter) deposit directly on the ground. In the 'low season' for agricultural demand for these organic fertilisers, up to 600-800 tonnes of chicken manure pile up on the 2 ha of land covered by PARCELS 002 and 10631 of POLÍGONO000 in Sandiás. The environmental problem is exacerbated because much of the "low season" coincides with the rainiest months, and the expected happens: rain seeps through the piles of chicken manure fermenting in the open air, creating black leachates loaded with nutrients (including antibiotics and hormones) that pass directly into the drainage network and thus into surface and groundwater, starting with the nearest sand pits.

SUMMARY AND CONCLUSIONS 1. If the main source of nitrate pollution in the A Limia plain were insufficiently treated urban wastewater discharges, it would be expected that the highest levels of pollution would be associated with the main population centres, especially the urban centre of Xinzo de Limia, which accounts for more than a third of the entire population of the A Limia plain. The results

rule out this possibility.

2. If the main source of nitrate pollution in the A Limia plain were poor management of organic waste from industrial farms, we would expect the highest levels of pollution to be associated with places where this waste is concentrated (macro-farms) or stored (manure heaps, inadequate slurry pits). The results clearly confirm this possibility for the two sites studied that have the highest levels of pollution.

3. The As Conchas reservoir (8 km downstream from the A Limia plain) was built in 1949, when the population in the municipalities of A Limia was almost double the current population.

Despite this, for around half a century, its waters remained clean. From 1989 onwards, industrial livestock farming began to grow spectacularly and steadily in the A Limia plain, causing the number of livestock in stables to increase by around 2,200-2,300 LU per year. After the turn of the century, with a population reduced by 40% compared to 1950, but with a livestock load already exceeding 40,000 LU, episodes of toxic cyanobacteria proliferation began in As Conchas. The latest official data available indicate that in the A Limia plain:

a. The population was 19,523 inhabitants in 2013.

b. The livestock population was 62,547 LU in 2009, so taking into account its steady growth rate (see graph), it would now have reached 75,000 LU, which in terms of waste production is equivalent to a population of 1,400,000 - 1,600,000 people. In other words, half of the entire population of Galicia is concentrated in just 1% of its surface area.

The contrasting historical evolution of the human population and industrial livestock farming in the A Limia plain already clearly suggested that the serious eutrophication of the As Conchas reservoir and the episodes of toxic cyanobacteria proliferation in recent years could not be due to insufficiently treated urban waste but rather to poorly managed waste from an excessive livestock load..

The data from the CSIC study have corroborated this.

4. The high levels of pollution found at point CSIC-13 indicate that the waters of the sand pits are currently as polluted as or more polluted than those of the watercourses in A Limia. This situation is of great importance for the LIFE+ project "Regenera Limia" as it raises additional serious doubts about the effectiveness of the project to "purify" the waters of the Antela River by circulating them through the sand pits which, due to their characteristics (great depth, steep banks, sparse vegetation and functional disconnection from the surrounding land), are already unsuitable for this purpose. d.- ***PROJECT: BUILDING FOR THE EXPANSION OF A CHICKEN FARM (examined by this section and Chamber in ordinary proceedings 4008/2020)*** *We extract part of the farm expansion project that was approved by the Regional Government of Galicia and subsequently annulled by this section on appeal, which we will later expand with reference to the ruling and which was admitted as evidence by extension to provide an example of waste management and the amount of waste from a single chicken farm:*

The farm under study will have a total capacity of 47,970 chickens. The rearing period will last approximately sixty days, with day-old chicks entering and leaving with an average weight of 2.5 kg at 45-50 days, leaving another 10-15 days for cleaning operations. (…) The housing will be of the all-in, all-out type and will last for around sixty days, with day-old chicks entering and leaving with an average weight of 2.5 kg after 45-50 days, leaving another 10-15 for chip removal, farm cleaning, disinfection and preparation for new rearing. (…) The manure will be delivered to agricultural farms, in accordance with the chicken manure management annex. (...) As the farm is located in a predominantly agricultural area, no manure storage is planned, as it will be removed immediately at the end of each rearing cycle and recycled as organic fertiliser in accordance with the chicken manure management annex, thus avoiding its concentration within the premises.(...) The building under study will be used for chicken farming and will have a total capacity of 47,970 chickens. (...) Waste from chicken manure: It will be recycled as organic fertiliser in accordance with the chicken manure management annex. (...) Management of manure outside the farm. Manure will be applied in accordance with the chicken manure management annex. The farm will be emptied six times a year. (...) Medication and antibiotic containers LER 180205 2 kg/year Indeterminate In container (...) 1 PLAN

CHICKEN MANURE PRODUCTION AND MANAGEMENT 1.1 OBJECTIVE OF THE

MANAGEMENT OF CHICKEN MANURE ON THE FARM The objective set by the promoter for the management of chicken manure produced on the farm is to minimise the environmental impact of this by-product of farming, within the limitations imposed by technical and economic constraints. To this end, the main condition is to recover the waste, i.e. to give it a use, even if this does not mean that it can be monetised, but which is more positive than disposal. This is why it was decided to use chicken manure as fertiliser on agricultural land. With this in mind, the aim is to minimise the problems associated with its use as a fertiliser, such as odours or water pollution due to eutrophication or the presence of bacteria. 1.2 CHICKEN MANURE PRODUCTION ON THE FARM The farm will have a capacity of 47,970 broiler chickens. According to the "Guide for the management of livestock manure and fertilisation", chicken manure has a nitrogen content of 1.4% and a phosphorus content of 1.0%, and the average production per chicken is 13.5 kg per place per year. Therefore: 13.5 kg/year 47,970 chickens= 647,595 kg x 1.4% N =

9,066.33 kg N/year 13.5 kg/year 47,970 chickens= 647,595 kg x 1%

P2O5 = 6,475.95 kg P2O5/year. (…)The total capacity required for the manure heap is that corresponding to the volume produced in six months. This manure heap shall be covered with concrete and have a waterproof concrete floor. Given that the density of chicken manure is 0.6, the volume produced in six months would be 540 m3. (...)2 MANAGEMENT PLAN OUTSIDE THE

EXPLOITATION. Chicken manure will be used as fertiliser on agricultural plots. The justification for the area over which the slurry is spread is provided in the list of plots. The declaration authorising the use of the land for this purpose, signed by the developer, is also attached. (...) The following form must be completed

in each application and shall be sent to the Plant Health and Production Service of the Regional Ministry of Rural Affairs upon request. e.- ***REPORT FROM THE UNIVERSITY OF VIGO (27.2.2023),*** *resulting from an agreement between the Miño-Sil River Basin Authority and the University of Vigo in relation to research into the source of nitrate pollution in the Limia river basin through the study of isotopic relationships of various elements.*

In their conclusions, they state that: "The study of nitrates allows us to determine with precision that the main sources of nitrates in the Limia river basin are poorly treated wastewater and the application of livestock waste to the land, which is then leached into surface waters...Nitrates enter watercourses from various sources, mainly poorly treated wastewater and livestock waste from pig and poultry farms in the area.

B.-DOCTRINAL, LEGISLATIVE AND JURISPRUDENTIAL PRECEDENTS THAT

SERVE AS PRECEDENTS FOR THE DECISION OF THIS CHAMBER:

1.- The Brundtland Report ("Our Common Future") *presented in 1987 by the UN World Commission on Environment and Development, headed by Norwegian doctor Gro Harlem Brundtland, which defined sustainability as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs".*

2.- APPLICABLE EUROPEAN UNION LAW:

**** Recitals 5, 6, 10, 11 and 13 of Directive 91/676 state the following:***

"Whereas the main cause of pollution originating from diffuse sources affecting Community waters is nitrates from agricultural sources; Whereas it is therefore necessary to reduce water pollution caused or induced by nitrates from agricultural sources and to prevent such pollution to a greater extent in order to protect human health, living resources and aquatic ecosystems and to safeguard other legitimate uses of water; Whereas, to this end, it is important to take measures concerning the storage and application to land of all nitrogen compounds and certain land management practices;

[...]

Considering that it is necessary for Member States to identify their vulnerable zones and to plan and implement action programmes to reduce water pollution caused by nitrogen compounds in vulnerable zones; Considering that such action programmes should include measures to limit the application to land of all fertilisers containing nitrogen and, in particular, to establish specific limits for the application of animal manure;

[...]

Considering that the hydrogeological situation in certain Member States is such that it may take many years before protective measures result in an improvement in water quality.

Article 1 of that Directive provides as follows:

"The objective of this Directive is:

– to reduce pollution caused or induced by nitrates of agricultural origin, and – to take preventive action against further pollution of this kind.

Article 2 of that directive provides as follows:

For the purposes of this Directive, the following definitions shall apply:

a) "groundwater" means all water below the surface of the ground in the saturated zone and in direct contact with the ground or the subsoil;

b) "freshwater": water that arises naturally, with a low salt concentration, and which can often be considered suitable for extraction and treatment to produce drinking water;

c) "nitrogen compound": any substance containing nitrogen, except gaseous molecular nitrogen;

[...]

g) "manure": waste excreted by livestock or mixtures of waste and excreta from livestock, including processed waste;

h) “application to land”: the incorporation of substances into land, whether by spreading on the surface, injecting into the soil, introducing beneath the surface or mixing with the surface layers of the soil;

i) “eutrophication”: the increase in the concentration of nitrogen compounds, which causes accelerated growth of algae and higher plant species and causes negative disturbances in the balance of organisms present in the water and in the water quality itself;

j) “pollution”: the introduction of nitrogen compounds of agricultural origin into the aquatic environment, directly or indirectly, which has consequences that may endanger human health, harm living resources and the aquatic ecosystem, cause damage to recreational areas or cause nuisance to other legitimate uses of the water;

k) “vulnerable area”: an area of land defined in accordance with Article 3(2). Article 3 of that

directive reads as follows:

"1. Member States shall determine, in accordance with the criteria set out in Annex I, the waters affected by pollution and the waters which could be affected by pollution if no measures are taken in accordance with Article 5.

2. Member States shall designate, within two years of notification of this Directive, as vulnerable zones all known areas of their territory whose runoff flows into the waters referred to in paragraph 1 and which contribute to pollution.

They shall notify the Commission of this initial designation within six months.

[…]

4. Member States shall review and, if necessary, amend or extend the designations of vulnerable zones within an appropriate timeframe and at least every four years, in order to take account of changes and factors not foreseen at the time of the previous designation. They shall notify the Commission of any amendments or extensions to the designations within six months.

5. Member States shall not be required to designate specific vulnerable zones if they draw up and implement action programmes as referred to in Article 5 in accordance with this Directive throughout their national territory.

In accordance with Article 4(1) of Directive 91/676:

"In order to establish a general level of protection against pollution for all waters, Member States shall, within two years of notification of this Directive:

(a) draw up one or more codes of good agricultural practice which may be implemented by farmers on a voluntary basis and which contain provisions covering at least the matters referred to in Annex II(A);

[…]".

Article 5 of that directive provides as follows:

"1. Within two years of the initial designation referred to in Article 3(2), or within one year of each additional designation pursuant to Article 3(4), and in order to achieve the objectives specified in Article 1, Member States shall establish action programmes for the vulnerable areas designated.

2. Action programmes may cover all vulnerable areas within the territory of a Member State or, if that Member State considers it appropriate, different programmes may be established for different vulnerable areas or parts of such areas.

3. Action programmes shall take into account:

a) the available scientific and technical data, in particular with regard to the respective contributions of nitrogen from agricultural and other sources;

b) the environmental conditions in the affected regions of the Member State concerned.

4. The action programmes shall be implemented within four years of their establishment and shall consist of the following mandatory measures:

a) the measures set out in Annex III;

b) the measures laid down by Member States in the code or codes of good agricultural practice established in accordance with Article 4, except those that have been replaced by the measures in Annex III.

5. Furthermore, in the context of the action programmes, Member States shall take any additional or reinforced measures they deem necessary if, at the start or as a result of experience gained in implementing the action programmes, it appears that the measures referred to in paragraph 4 are not sufficient to achieve the objectives specified in Article 1. When selecting these measures or actions, Member States shall take into account their effectiveness and cost in comparison with other possible prevention measures.

6. Member States shall establish and implement appropriate monitoring programmes to assess the effectiveness of the action programmes established in accordance with this Article.

Member States applying Article 5 throughout their national territory shall monitor the nitrate content of water (surface and groundwater) at selected measuring points from which the degree of water pollution caused by nitrates from agricultural sources can be established.

[...]

Article 6(1) of that directive provides as follows:

"In order to designate vulnerable zones and to amend or extend the list of such zones, Member States shall:

a) within two years of notification of this Directive, monitor the concentration of nitrates in fresh waters over a period of one year:

i) at surface water sampling stations, as referred to in Article 5(4) of Directive 75/440/EEC [of the Council of 16 June 1975 concerning the quality required of surface water intended for the abstraction of drinking water in the Member States (OJ 1975, L 194, p. 26; EE 15/01, p. 123)] and/or at other surface water sampling stations in the Member States, at least once a month and more frequently during periods of high flow;

ii) at sampling stations representative of the groundwater bodies of the Member States, at regular intervals and taking into account the provisions of Directive 80/778/EEC [of the Council of 15 July 1980 on the quality of water intended for human consumption (OJ 1980, L 229, p. 11; EE 15/02, p. 174)];

b) repeat the monitoring programme established in point (a) at least every four years, except for sampling stations where the nitrate concentration in all previous samples has been less than 25 mg/l and where no new factors have appeared that could lead to an increase in the nitrate content, in which case it shall be sufficient to repeat the monitoring programme every eight years;

c) they shall review the eutrophic status of their fresh surface waters and their estuarine and coastal waters every four years.

Article 10 of the same Directive reads as follows:

"1. For the period of four years following the notification of this Directive, and for each subsequent period of four years, Member States shall submit to the Commission a report containing the information referred to in Annex V.

2. The report referred to in this Article shall be submitted to the Commission within six months of the end of the period to which it relates."

In accordance with Article 11 of Directive 91/676:

"On the basis of the information received in accordance with Article 10, the Commission shall publish summary reports within six months of the submission of the reports by the Member States and shall forward them to the European Parliament and the Council. In the light of the implementation of this Directive and, in particular, of Annex III, the Commission shall submit to the Council, by 1 January 1998 at the latest, a report accompanied, where appropriate, by proposals for the revision of this Directive."

Annex I of this Directive, entitled "Criteria for identifying waters referred to in Article 3(1)", establishes in Part A:

"The waters referred to in Article 3(1) shall be identified using, among other criteria, the following:

1. if surface freshwaters, in particular those used or intended for the abstraction of drinking water, present, or are likely to present if no action is taken in accordance with Article 5, a

nitrate concentration higher than that set in accordance with [Directive 75/440]; 2. if groundwater contains more than 50 mg/l of nitrates or is likely to contain such concentrations if action is not taken in accordance with Article 5; 3. if natural freshwater lakes, other natural freshwater bodies, estuaries, coastal waters and marine waters are eutrophic or are likely to become eutrophic in the near future if no action is taken in accordance with Article 5.

Under Annex II to that directive, entitled 'Code(s) of good agricultural practice':

"A. Codes of good agricultural practice, aimed at reducing nitrate pollution and taking into account the conditions in different regions of the Community, should include provisions covering the following matters, as appropriate:

1. the periods when it is not advisable to apply fertilisers to land; 2. the application of fertilisers to land on steep slopes and steep terrain;

[...]

5. the capacity and design of manure storage tanks, measures to prevent water contamination by runoff and seepage into surface or groundwater of liquids containing manure and residues from stored plant products such as silage fodder;

[...]

B. Member States may also include the following issues in their code(s) of good agricultural practice:

[...]

9. the establishment of fertilisation plans tailored to the specific situation of each farm and the recording of fertiliser use in registers;

[…]

Annex III to the same Directive, entitled 'Measures to be included in the action programmes referred to in Article 5(4)(a)', reads as follows:

'1. The measures shall include rules on:

[...]

2. the capacity of manure storage tanks; this capacity must be greater than that required for the storage of manure during the longest period when the application of manure to land is prohibited in the vulnerable zone, except where it can be demonstrated to the competent authorities that any quantity of manure exceeding the actual storage capacity will be disposed of in such a way that it does not cause damage to the environment; 3. the limitation of fertiliser application to land that is compatible with good agricultural practice and takes into account the characteristics of the vulnerable zone concerned, and in particular:

a) soil conditions, soil type and slope;

b) climate, rainfall and irrigation conditions;

c) land use and agricultural practices, including crop rotation systems; and it must be based on a balance between:

i) the expected amount of nitrogen required by crops, and

ii) the amount of nitrogen provided to crops by soils and fertilisers, which corresponds to:

— the amount of nitrogen present in the soil when crops begin to use it in large quantities (significant amounts at the end of winter),

— the supply of nitrogen through the net mineralisation of organic nitrogen reserves in the soil,

— the contribution of nitrogen compounds from animal excrement,

— contributions of nitrogen compounds from chemical fertilisers and other sources.

2. These measures will prevent the amount of manure applied to the land each year, including that from the animals themselves, from exceeding a specified amount per hectare for each farm or livestock unit.

The specified amount per hectare shall be the amount of manure containing 170 kilograms of nitrogen. […] […]

Annex V to Directive 91/676, entitled 'Contents of the reports referred to in Article 10', provides as follows:

"[...]

3. A summary of the results of the monitoring carried out in accordance with Article 6, including a statement of the reasons for the designation of each vulnerable zone or any modification or extension of the designations of vulnerable zones.

4. A summary of the action programmes drawn up in accordance with Article 5 and, in particular, of: [...]

c) any complementary reinforced measures or actions adopted in accordance with Article 5(5);

[...]

e) the assumptions made by Member States regarding the likely timing by which the waters identified in accordance with Article 3(1) are expected to respond to the measures in the programme of action, together with an indication of the degree of uncertainty associated with those assumptions.

Spanish law

Directive 91/676 was transposed into Spanish law by Royal Decree 261/1996 of 16 February on the protection of water against pollution caused by nitrates from agricultural sources (BOE No. 61 of 11 March 1996, p. 9734). In the meantime, that Royal Decree was repealed and replaced by Royal Decree 47/2022, of 18 January, on the protection of water against diffuse pollution caused by nitrates from agricultural sources (BOE No. 17, of 20 January 2022, p. 5664).

Furthermore, all the autonomous communities referred to by the Commission in its appeal have adopted, within the scope of their powers, legislation designed to comply with the obligations arising from Directive 91/676.

3.- Judgment 16798/90 Tomás v. SPAIN:

Judgment of 9 December 1994, in relation to 'fair balance':

***Recital 51**.*

It goes without saying, however, that serious damage to the environment can affect a person's well-being and deprive them of the enjoyment of their home in such a way that their private and family life is impaired, without thereby seriously endangering the health of the person concerned. Whether the issue is approached from the point of view of a positive obligation on the part of the State – to take reasonable and appropriate measures to protect the rights of the individual under Article 8(1) – as the applicant wishes in her case, or from the point of view of 'interference by a public authority', which must be justified under Article 8(2), the applicable principles are quite similar. In both cases, attention must be paid to the fair balance to be struck between the competing interests of the individual and society as a whole, with the State enjoying a certain margin of appreciation in all cases. Furthermore, even in the case of positive obligations arising from paragraph 1, the objectives listed in paragraph 2 may play a certain role in the search for the desired balance (see, in particular, the judgments in Rees v. the United Kingdom of 17 October 1986, Series A, No. 106, pp. 15-37, and Powell and Rayner v. the United Kingdom of 21 February 1990, Series A, No. 172, pp. 18-41). 52. It appears from the file that the sewage treatment plant at issue was built in July 1988 by Sacursa to solve a serious pollution problem in Lorca caused by the concentration of tanneries.

However, since its commissioning, it has caused discomfort and health problems for many residents (see paragraphs 7 and 8 above). Admittedly, the Spanish authorities, and in particular the Lorca municipal council, were not initially directly responsible for the emissions in question.

However, as the Commission points out, the city allowed the plant to be built on land it owned, and the State granted a subsidy for its construction (see paragraph 7 above). 53. The City Council reacted swiftly by rehousing the affected residents free of charge in the city centre during July, August and September 1988 and subsequently by closing down one of the plant's activities as of 9 September (see paragraphs 8 and 9 above). However, its members could not ignore the fact that environmental problems persisted after the partial closure (see paragraphs 9 and 11 above). This was further corroborated on 19 January 1989 by the report of the

Regional Agency for the Environment and Nature and subsequently confirmed by expert evidence in 1991, 1992 and 1993 (see paragraphs 11 and 18 above). 54. According to Ms Tomás, the general police powers conferred on the municipal authorities by the 1961 Regulations obliged them to act.

Furthermore, the plant did not meet the conditions required by law, particularly with regard to its location and the absence of a municipal licence (see paragraphs 8, 27 and 28 above). 55. In this regard, the Court recalls that the question of the legality of the installation and operation of the plant has been pending before the Supreme Court since 1991 (see paragraph 16 above).

28), the national authorities adopted the necessary measures to protect the applicant's right to respect for her home and her private and family life as guaranteed by Article 8 (see, among others and mutatis mutandis, the judgment in X and Y v. the Netherlands, 26 March 1985, Series A no. 91, pp. 11-23). 56. It should be noted that not only did the municipal authorities fail to take any measures to that end after 9 September 1988, but they also opposed the court decisions to that effect. Thus, in the ordinary proceedings brought by Mrs Tomás' sisters-in-law, they appealed against the decision of the Murcia High Court of 18 September 1991 ordering the provisional closure of the plant, with the result that the measure was suspended (see paragraph 16 above). Other State bodies also contributed to prolonging the situation. On 19 November 1991, the Public Prosecutor's Office challenged the provisional closure order issued by the Investigating Judge of Lorca on 15 November in the context of proceedings for environmental offences (see paragraph 17 above), with the result that the measure remained unenforced until 27 October 1993 (see paragraph 22 above). 57. The Government recalls that the city covered the cost of renting an apartment in the centre of Lorca, which the applicant and her family occupied between 1 February 1992 and February 1993 (see paragraph 21 above). The Court notes, however, that the applicants had to endure the inconvenience caused by the plant for more than three years before moving, with all the disadvantages that this entailed. They did not do so until it became clear that the situation could continue indefinitely and following the recommendation of Ms Tomás's daughter's paediatrician (see paragraphs 16, 17 and

19). Under these circumstances, the City Council's offer could not completely eliminate the inconvenience and discomfort suffered. 58. In view of the foregoing – and despite the margin of appreciation accorded to the defendant State – the Court finds that the latter failed to strike a fair balance between the interest in the economic well-being of the city of Lorca – having a sewage treatment plant – and the effective enjoyment by the applicant of her right to respect for her home and family life. There has therefore been a violation of Article 8."

3.- Judgment of the Court of Justice of the European Union, 14 March 2024:

Spain has failed to comply with Directive 91/676 on the protection of waters against pollution caused by nitrates from agricultural sources (Articles 3.4, 5.4 and 5.5; Annexes II and III) (although its ruling does not include the Autonomous Community of Galicia despite being reported by the Commission due to a procedural defect in the identification and location of pollutants), reference is made to the relevant content:

By its action, the European Commission requests the Court of Justice to declare that the Kingdom of Spain has failed to fulfil its obligations under Article 3(4) of Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ 1991, L 375, p. 1; corrigendum in OJ 1993, L 92, p. 51), as amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 (OJ 2008, L 311, p. 1) (hereinafter 'Directive 91/676'), Article 5(4) of Directive 91/676, in conjunction with Annexes II and III thereto, and Article 5(5) of that directive:

– insofar as it has not designated as vulnerable zones in the Community of Castile and León, in the Autonomous Community of Extremadura, in the Autonomous Community of Galicia, in the Autonomous Community of the Balearic Islands, in the Autonomous Community of the Canary Islands, in the Community of Madrid and in the Valencian Community the water catchment areas by runoff (surface water) or by infiltration (groundwater) (hereinafter referred to as 'catchment areas') relevant to each of the following contaminated measurement points:

14.RW.06.110, 14.RW.06.210, 14.RW.07.030, 14.RW.07.070,

14.RW.11.020, 14.RW.14.050, TW-54-10, TW-31-10, TW-31-20, TW- 36-10, CW-10-10, CW-12-10, CW-16-10, CW-16-20, TW-36-20, TW- 37-10, TW-37-20, TW-39-10, TW-39-20, TW-25-10, CW-49-10 and TW- 25-05; 32 La
The Commission alleges that, in the reports provided by the Kingdom of Spain pursuant to Article 10 of Directive 91/676, it was stated that the water collected at the measuring points referred to in the first plea was polluted or eutrophic due to nitrates. According to the Commission, there is therefore sufficient evidence to find that there has been an infringement of Article 3(4) of Directive 91/676, unless the Kingdom

of Spain to provide, for each water catchment area relevant to those measuring points, data proving that nitrates of agricultural origin do not contribute significantly to that pollution.

33 In its response, the Kingdom of Spain refutes this claim, emphasising that it is for the Commission to prove the existence of the alleged infringement. It argues that

Body:
Location:
Section:
Date: //
Appeal No.:
Type of decision: **Judgment**

the autonomous communities referred to in this ground fulfilled their obligations to designate vulnerable zones under Article 3(4) of Directive 91/676, or that that ground relates to zones in which nitrates of agricultural origin do not contribute significantly to pollution, so that no breach of that provision can be found.

34 Furthermore, the Kingdom of Spain provides detailed observations on the measurement points referred to in the first ground, including, in particular, the following clarifications.

36 With regard to the Autonomous Community of Galicia, the Kingdom of Spain claims, in particular, that, as regards certain measuring points, including measuring points 14.RW.11.020 and 14.RW.14.050, investigations are being carried out to determine the source of nitrate pollution.

45 Fourthly, with regard to the Autonomous Community of Galicia and 21 of the 23 measuring points referred to in the first plea, the Commission acknowledges that it is apparent from the explanations provided by the Kingdom of Spain that it is not necessary to designate the catchment areas relevant to those measuring points as vulnerable areas.

46 With regard to the two remaining measuring points, namely measuring points 14.RW.11.020 and 14.RW.14.050, the Commission considers that the catchment areas relevant to those measuring points should be designated as vulnerable zones, since it cannot be ruled out that the pollution measured at those locations was caused by nitrates of agricultural origin.

47 In addition, the Commission identifies fifteen other measuring points under the responsibility of the Autonomous Community of Galicia, namely measuring points NO01880006, NO03010003, 14.RW.12.020, 14.RW.05.060, 14.RW.10.020, 14.RW.11.060, 14.RW.11.070, 14.RW.11.040, 14.RW.10.030, 14.RW.11.080, 14.RW.12.030, 14.RW.12.110,
14.RW.14.040, 14.RW.14.060 and 14.RW.05.090, where eutrophication was detected. Therefore, according to that institution, the catchment areas relevant to those measuring points should also be designated as vulnerable areas.

181 The Court of Justice has already held that it follows from a combined reading of Article 3(1) and Annex I, Part A, points 2 and 3, of Directive 91/676 that pollution must be regarded as affecting waters not only when groundwater has a nitrate content exceeding 50 mg/l, but also, in particular, when natural freshwater lakes, other freshwater bodies, estuaries and coastal and marine waters are eutrophic (judgment of 21 June 2018, Commission v Germany, C-543/16, EU:C:2018:481, paragraph 60). Consequently, in the event of eutrophication, Member States are required to adopt the measures provided for in Article 5 of that directive, namely action programmes and, if necessary, additional measures and reinforced action, in order to reverse that situation.

185 In that regard, it must be held that the fact that a Member State does not take rivers into account when identifying eutrophication situations on its territory may constitute a breach of Article 3(1) of Directive 91/676, read in conjunction with Annex I, Part A, point 3, of that directive, which provides that waters must be considered to be affected by pollution if 'natural freshwater lakes, other natural freshwater bodies, estuaries, coastal waters and marine waters' are eutrophic. Rivers must be considered to be 'other freshwater bodies' for the purposes of that provision. Furthermore, as regards the removal of measuring points where eutrophication or a risk of eutrophication was observed during the previous period, it should be recalled that Member States are required to carry out proper and complete monitoring and review of waters, in particular in accordance with Article 6(1)(a) to (c) of that directive.

Furthermore, pursuant to Article 5(6) of the aforementioned Directive, Member States shall draw up and implement appropriate monitoring programmes to assess the effectiveness of the action programmes they have established.

***4.- In accordance with Royal Decree 47/2022, of 18 January, on the protection of waters against diffuse pollution caused by nitrates from agricultural sources, a vulnerable area is considered to be** "all known areas of its territory whose runoff flows into the waters referred to in Article 3 and which contribute, even minimally, to their pollution".*

***5.- Action brought on 31 March 2014 — European Commission v Hellenic Republic (Case C-149/14) (2014/C 184/18)** 1. The objective of the Nitrates Directive is to reduce water pollution caused or induced by nitrates from agricultural sources and, in addition, to prevent such pollution. The directive imposes on Member States the obligation to take various measures to achieve that objective. The relevant obligations include the obligation to designate areas of land within the territory of the Member States whose waters: (a) drain into surface freshwaters and/or groundwater (Article 3, Annex 1) containing or capable of containing more than 50 mg/l of nitrates, if the measures required by the Nitrates Directive are not taken, and (b) discharge into freshwater bodies, estuaries, coastal waters and marine waters that are or may become eutrophic, if no measures are taken. The areas mentioned above are called 'nitrate vulnerable zones' or NVZs.*

***6.- Judgment 547/2021 of the Second Chamber of the High Court of Justice of Galicia handed down in PO 4008.2020 dated 19 November 2021** in response to an appeal against the Resolution of the Directorate-General for Environmental Quality and Climate Change of 8 October 2019, which formulates the environmental impact report for the project to expand a chicken farm in Congostro, parish of Santa Mariña de Congostro, in the municipality of Rairiz de Veiga (Ourense), promoted by Cavirsa Freire, S.C. with file number NUM000), the announcement of which was published by the Regional Ministry of the Environment, Territory and Housing in the Official Gazette of Galicia on 25 October 2019 (DOG No. 204), which had the following ruling: "FIRST.*

-In consideration of the claim filed by Mr. Eduardo and Ms. Sara, represented by attorney Ms. Elena Miranda Osset and assisted by lawyer Mr. Francisco Javier Serrano García, and as the defendant, the Regional Ministry of the Environment, Territory and Housing, represented and assisted by the lawyer of the Regional Government of Galicia on environmental impact, we declare the appealed decision null and void.

SECOND. – The defendant is expressly ordered to pay the costs of the proceedings, up to a limit of 1,500 euros for all items."

We highlight the following from the aforementioned resolution, which is a precedent of the Chamber's assessment that can easily be applied to the present case:

With regard to capacity, we stated: "The annual production of the poultry farm amounts to 287,820 chickens in six production cycles, comprising 47,970 units in each cycle."

In relation to the activity, we stated in the facts: "The project refers to poultry farming as the second most important subsector within Galician industrial livestock farming, including both meat and egg production; in 1997, chicken meat production increased by 30% compared to the previous year. The number of birds slaughtered in Galicia increased from 22,698,900 in 1973 to 74,774,900 in 2011. In 1998, Galicia produced 12.42% of Spanish poultry meat."

Finally, with regard to chicken manure management, we stated: "With regard to chicken manure management on the farm, it is noted that the chicken manure density is 0.6; the volume produced in 6 months would therefore be 540 m3, which is less than the 648 m3 available capacity in the planned manure pit, assuming an average storage height of 3m, thus providing sufficient storage for 6 months of activity."

The Directorate-General for Natural Heritage provided the following information relevant to this project: "(...) Fertilisers shall be used efficiently so as not to affect the quality of watercourses, complying at all times with current sectoral regulations and the Galician code of good agricultural practice, in accordance with the technical instructions for the implementation of the organic fertilisation management plan of the Regional Ministry of the Environment, Territory and Housing.

The precautionary principle shall be applied, avoiding accumulations that give rise to erosion or spills or seepage into the ground. There shall be no impact on surface or groundwater. Extreme precautions shall be taken in areas affected by the continental water network, and the quality parameters included in Annex V of Decree 130 of 14 May 1997, which approves the regulations on river fishing and continental aquatic ecosystems, and those established by the European Economic Community for salmon rivers, must be complied with at all times.

By the Hydrographic Confederation: "(...) It is considered that the possible effects of the slurry on surface and groundwater should be analysed in greater detail, as well as the planned analytical controls, proposing their inclusion in the project's environmental monitoring programme during the lifetime of the facility; the monitoring measures shall include environmental monitoring arising from the quality control of inland waters with adjusted parameters in order to monitor them and, if necessary, propose new corrective measures for the environmental quality parameters of the waters so that they are correct. (...) In the Chamber's assessment, we stated in relation to the evidence presented and waste management:

"Having reviewed the project, in view of the allegation made, despite its simplified nature in the procedure, we continue to assess its future impact on aspects such as the slurry that will be produced, in particular the accumulation of manure and its transfer to land for fertiliser, which require more detailed examination by the defendant administration, especially since section 4.9, referring to the environmental impact, does not mention the Natura 2000 site and its relevance to the situation in which the extension of the farm is requested.

This means that, despite what the administration said in its decision, it's pretty weird that in an area with loads of these types of facilities, which isn't denied, the Natural History Society's argument wasn't considered, and the project doesn't have to be more specific or show that there's no impact, given that the area as such must be assessed as a whole, and an individualised environmental impact project such as the one now proposed cannot be assessed without taking into account the other existing farms, since we are referring to cumulative impacts. For example, if we generate a certain number of cubic metres of manure on a farm, we can distribute this for fertiliser over a more or less extensive area; However, if there are X farms in the area, there must be a methodology to prevent impact on the environment, and the project does not include an assessment of the existing farms in the area, the distance to the farm and the zero impact required in order to share a significant environmental impact on the development of production. This is clearly integrable when the provision states: "When the project may directly or indirectly affect Natura 2000 sites, a specific section shall be included for the assessment of its impact on the site, taking into account the conservation objectives of the site" (...) "In other words, although the potential environmental impact affects this company or facility, all existing facilities of the same type in the vicinity that affect the surrounding land must be taken into account, as they are necessarily integrated into the area in the vicinity of important aquifers, a fact that is not disputed. hence we agree with the appellant that the reference to its integration into the Natura network in section 4.9 is flawed, together with the fact that the description of the environmental aspects is vague and incomplete.

Thus, in the latter case, it is stated that the project envisaged the use of manure on land close to the farm, but such vagueness in view of the large volume involved requires a more precise definition of how this land will be used, particularly in view of the farms that may be located nearby. It should be noted that the reports submitted during the investigation period refer to two problems: on the one hand, intensive agriculture and, on the other, the accumulation of farms, since failure to take this into account would necessarily affect the environment due to the lack of control in the surrounding land and, as in the case of manure, which favours intensive agriculture, is transferred for recovery, and without the preparation of a file which, curiously, according to the project in the annex to the management project dedicated to chicken manure, is not sufficient for the purposes of assessing environmental impact" (...) "5.- REASON: there is no adequate assessment of the environmental impact on water resources.

The appellant claims that from the above, it can only be concluded that the Directorate-General for Livestock, Agriculture and Agri-Food Industries is unaware of the livestock population in the headwaters of the Limia river basin, specifically in the municipalities of Baltar, Calvos de Randín, Cualedro, Os Blancos, Porqueira, Rairiz de Veiga, Sandiás, Sarreaus, Trasmiras, Vilar de Barrio, Vilar de Santos, Xinzo de Limia, and Xunqueira de Ambía. The developer in the environmental document includes data from 2011, i.e. nine years ago, on total poultry meat production in Galicia, which reached 133,933.45 tonnes, of which 68,610.35 tonnes correspond to the province of Ourense, with broiler chicken production being the most important poultry farming activity in Galicia, accounting for 90.87% of total poultry meat production.

The administration opposes this due to the favourable report issued by the CHMiño-Sil.

While it is true that the report from the Hydrographic Confederation exists, a reading of said report shows that it expresses great caution regarding the planned activity, with multiple precautions in order to ensure that the activity is carried out properly.

Similarly, reports have emerged, as evidenced by the evidence presented, that this situation should be assessed in greater detail, as well as the conclusions of the report carried out by the Faculty of Sciences of the University of Vigo (analytical chemistry group) in 2020, published in

The journal Agriculture, Ecosystems and Environment concludes, following analysis of samples taken in the A Limia region, that: "In summary, the results of the research confirm the importance of assessing natural levels and limit values of naturally occurring substances in groundwater. This strategy will help define the chemical status as 'good' or 'poor'. Therefore, this issue should be carefully assessed when multiple substances are identified that threaten the environmental objectives of the Water Framework Directive for groundwater. A careful assessment of the relevant points with regard to the reference standards adopted to ensure a specifically tailored approach to the characteristics of the study area seems advisable. In this regard, the study of well water and natural sources in the A Limia region shows nitrate contamination in more than half of the first samples analysed, with very high values. From the information collected, it can be deduced that this contamination of the aquifer can be attributed to the leaching of fertilisers and excess livestock waste, due to poor fertilisation practices, the high permeability of the substrate and the low depth of the water table. Other elements and compounds, such as fluorides, nitrites, aluminium, arsenic, lead, manganese and mercury, have also exceeded the legal limits in some samples. Multivariate data analysis appears to include powerful tools for identifying structures within the data and facilitating their interpretation. Private well water has higher concentrations than natural sources. There is a clear gradient of compounds: Nitrate> Chloride> K, Ca, and Sulphate> Mg, and Phosphate> the rest. In terms of location, concentrations were clearly higher in the south-eastern area than in the rest of the areas. Therefore, the areas with the most sensitive groundwater quality in the Limia river basin are determined by nitrate levels in well water, mainly in the south-eastern area. Considering the main economic activities in this region, the high concentrations of certain analytes are likely due to agricultural and livestock pollution. A detailed study is recommended, with special attention to the sampling wells that yielded "aberrant" results. Issues related to public health and crop and environmental quality arising from groundwater contamination by these elements and compounds should be considered of utmost importance and should be studied to prevent and correct contamination as soon as possible. In addition, real alternatives to intensive agriculture and livestock farming models should be sought, as other models are more respectful of the environment and society, i.e. they are sustainable. However, in order for sustainable agriculture to be implemented, awareness and knowledge should be promoted among society in general, and among farmers and crop workers in particular, through intensive media campaigns, training opportunities in this field, accessibility to change the type of agriculture with the help of the necessary techniques and, finally, legislation. This work highlights the need for a rational and systematic approach to risk assessment in food production in intensive areas and for economically effective approaches to risk management. It is hoped that the information presented will have important implications for the prioritisation of preventive and corrective interventions.

It should be noted that, although chicken manure is a natural fertiliser with good results, excessive use of this type of concentrated manure in a specific area may contribute to groundwater contamination through nitrate leaching from the mineralisation of organic nitrogen in this type of fertiliser. This issue should have been assessed by the administration prior to issuing the resolution now under appeal, as it has been repeatedly reported by the Natural History Society, given that the project, and as assumed by the administration in relation to this expansion, will produce 540 m3 of chicken manure every six months. The total volume produced by the other farms in the A Limia area is unknown, or at least it has not been assessed by the administration, and if we take into account the solution provided by the Project, it is very vague and therefore raises significant scientific doubts, bearing in mind that it is a protected area where maximum precautions must be taken. Equally relevant is the report by the same University based on the Ourense campus, also published in the same scientific journal, which seeks to identify nitrates in the Limia River (2020 report) and states that one of the causes (page 9 of the report) may be a consequence of intensive agriculture and farming activities in the area, which should at least raise scientific doubts in the administration and prompt investigation before the effects become irreversible.

The reason must be upheld.

(…) 6.- GROUND: breach of the precautionary principle.

The appellant alleges that, as has been proven, the expansion of a farm such as the one in question, located just a few metres from a residential area, poses serious risks due to dust, particle and odour emissions from the activity, ammonia emissions and zoonotic diseases transmissible to humans, with incalculable consequences, as we are unfortunately seeing with the effects of COVID-19.

The precautionary principle also applies to the harmful consequences of the concentration of this type of farming in the area on water resources, both for human health, with a significant impact on drinking water supply wells, and due to the presence of cyanobacteria in surface and groundwater, and high eutrophication, the direct cause of which is the concentration of intensive livestock farming in the region.

Community law establishes the precautionary principle, which is a general principle of law that fills any legal gaps that may arise not only within Community law, but also within the law of the Member States of the European Union.

This principle requires that the competent authorities, within the precise framework of the powers conferred on them by the relevant legislation, take appropriate measures to prevent certain potential risks to public health, safety and the environment. This necessitates a scientific assessment of the risks, as far as possible, identifying a hazard and determining its characteristics by assessing exposure to it and determining the risk it may eventually cause.

Community institutions are required, under Article 152(1), first paragraph, of the EEC Treaty, to ensure a high level of human health protection.

In this regard, reference should be made, inter alia, to the judgments of the Court of Justice of 21 November 1991, Technische Universität München, C 269/90, ECR p. I 5469, paragraph 14; of 7 May 1992, Pesquerías De Bermeo and Naviera Laida v Commission, C 258/90 and C 259/90, ECR p. I 2901, paragraph 26; Spain v Lenzing, paragraph 58, and Netherlands v Commission, paragraph 56).

In this regard, it is worth recalling the report by the Galician Natural History Society, which was not refuted by the defendant, which referred to constant warnings and stated that: Over the last 10 years, the SGHN has sent more than 30 letters to the successive regional ministries responsible for the environment: a. Alerting them to the saturation of large industrial facilities at the headwaters of the Limia River, as reflected in official data. b. Warning that the fact that a large part, if not the vast majority, of these industrial facilities are linked to or promoted by the COREN group suggests that this conglomerate of companies has a defined plan to intensify industrial activity in the Limia river basin, which has never been subject to an overall environmental assessment to determine the synergistic and cumulative effects of the concentration of large-scale industries in the Limia river basin, an area that is highly sensitive from a hydrological, botanical and faunistic point of view. c. Warning that the data collected by the stations of the Integrated Water Quality Network (ICA) and the Automatic Water Quality Information System (SAICA) indicate that the chemical quality of the waters in the Limia region is not acceptable according to the guidelines set out in Directive 2006/44/EC. d. Requesting a moratorium on the processing of applications for the installation or expansion of large livestock farms in the Limia river basin until the synergistic and cumulative effects of existing farms on water resources (quality and quantity) and the botanical and faunal values of the Limia have been assessed.

This report is relevant to the situation described by the Regional Ministry of Rural Affairs in its report, which states that it is not possible to assess the increase in livestock numbers that the proposed expansion could entail. This report should be supplemented with information from the Regional Ministry on the timing of chicken manure distribution. However, the project fails to provide this information, which is curious and suggests a possible lack of awareness of the impact on the area, as the data is not provided directly but is instead presented in a document on the timing of distribution, which expressly states:

"The following form must be completed for each application (referring to chicken manure) and sent to the Plant Health and Production Service of the Regional Ministry of Rural Affairs when requested."

There is therefore a lack of comparative data due to the lack of investigation of the successive documents submitted, which should have included at least an inspection of the farms as a whole prior to expansion, and monitoring of the destination of the chicken manure, since, as can be seen from the reports provided during the probationary period, the soil is largely sandy, which implies high permeability and possible impact on groundwater.

The existence of reports containing analytical data, as published in scientific journals and included in the proceedings warning of abnormal values, should in themselves justify, based on the principle of precaution, scientific research prior to the expansion of the farm and prior to the issuance of an environmental impact report, given the consequences in terms of the impact that the concentration of this type of farm may be having on water resources in the area, ruling out the danger to human health due to an impact on drinking water supply wells, examining their origin, as well as the origin due to the presence of cyanobacteria in surface and groundwater in a cross-border river, which, as a minimum precautionary measure, the administration must assess in order to take measures or, where appropriate, rule out such danger.

*7.- **The Judgment of the Plenary Session of the Constitutional Court 119/2001, of 24 May**, as it summarises the constitutional interpretation of the conflict at issue in relation to the fundamental right to personal and family privacy in the home, insofar as it prevents or seriously hinders the free development of the personality, provided that the injury or impairment stems from acts or omissions of public entities to which the injury caused is attributable:*

*"**Fifth**.- (...) these rights [to physical and moral integrity and to personal and family privacy] have also acquired a positive dimension in relation to the free development of the personality, aimed at the full effectiveness of these fundamental rights. Indeed, given that our constitutional text does not enshrine merely theoretical or illusory rights, but real and effective ones (STC 12/1994, of 17 January, F. 6), it is essential to ensure their protection not only against the aforementioned interference, but also against the risks that may arise in a technologically advanced society. The case law of the European Court of Human Rights has been sensitive to this new reality, as reflected in the judgments of 21 February 1990, Powell and Rayner v. the United Kingdom; 9 December 1994, López Ostra v. the Kingdom of Spain; and 19 February 1998, Guerra and Others v. Italy.*

*(...) **Sixth**.- This Court has always been aware of the value that must be recognised, by virtue of Article 10.2 of the Spanish Constitution, to the doctrine of the European Court of Human Rights in its interpretation and protection of fundamental rights (see, among others, Constitutional Court Judgment 35/1995, of 6 February [RTC 1995\35], F. 3). Insofar as is strictly relevant here, this doctrine is particularly reflected in the ECtHR judgments of 9 December 1994, López Ostra v. Kingdom of Spain, and of 19 February 1998, Guerra and Others v. Italy. In those judgments, it was held that, in certain particularly serious cases, certain environmental damage, even if it does not endanger human health, may violate the right to respect for private and family life, depriving individuals of the enjoyment of their home, within the meaning of Article 8(1) of the Rome Convention (ECHR judgments of 9 December 1994, § 51, and of 19 February 1998, § 60). This doctrine, which this Court echoed in STC 199/1996 of 3 December (F. 2), must serve, as proclaimed in the aforementioned Article 10.2 of the Spanish Constitution, as an interpretative criterion for constitutional provisions protecting fundamental rights (Constitutional Court Ruling 303/1993, of 25 October, F. 8). (...) From the perspective of the fundamental rights involved, we must begin our analysis by recalling the possible impact on the right to physical and moral integrity. In this regard, we must agree that, when continuous exposure to intense levels of noise seriously endangers people's health, this situation may imply a violation of the right to physical and moral integrity (Article 15 of the Spanish Constitution). Indeed, although it is true that not every case of risk or damage to health implies a violation of Article 15 of the Spanish Constitution, nevertheless, when the levels of noise pollution that a person must endure, as a result of an action or omission by the public authorities, exceed the threshold at which health is seriously and immediately endangered, the right guaranteed in Article 15 of the Spanish Constitution may be affected. ... With this in mind, we can conclude that prolonged exposure to certain levels of noise, which can objectively be classified as avoidable and unbearable, must be protected by the fundamental right to personal and family privacy in the home, insofar as they prevent or seriously hinder the free development of the personality, provided that the injury or impairment results from acts or omissions of public entities to which the injury caused is attributable."*

***C.- ASSESSMENT BY THE ORIGINAL COURT of NITRATES/cyanobacteria** Although the facts referred to reflect a complex situation that goes back in time, we can already say that the rights to life and to a home in the broad sense, as defined by the ECHR in relation to the provisions of the Spanish Constitution, have been affected.*

Human rights and environmental protection are interdependent. A sustainable environment is necessary for the full enjoyment of human rights, including the rights to life, to an adequate standard of living, to safe drinking water and sanitation, to housing, to participation in cultural life, and to development.

The obligation of States to respect human rights requires protecting the enjoyment of such rights from harmful interference and enforcing them by striving to give them full effect. Therefore, in the face of serious environmental damage that also violates fundamental rights, administrations must refrain from violating human rights by causing or allowing environmental damage and have a duty to take effective measures to ensure the preservation of the environment, guaranteeing sustainable economic development that does not harm the well-being of future generations, as already warned in the Brundtland Report. environment, ensuring sustainable economic development that does not harm the well-being of future generations, as already warned in the Brundtland Report.

In order to provide protection against environmental damage and take the necessary measures to give full effect to human rights that depend on the environment, governments must enforce

effective legal frameworks for the enjoyment of a risk-free environment, including substantive environmental standards, such as those relating to respect for air quality and fresh water.

The United Nations Conference on the Human Environment (Stockholm, 1972) proclaims in its first principle: "1. Man is both the creator of and the dependent on the environment surrounding him, which provides him with the means of life and the opportunities for intellectual, moral, social and spiritual development. In the long and tortuous evolution of the human race on this planet, a stage has been reached where, thanks to the rapid acceleration of science and technology, man has acquired the power to transform, in countless ways and on an unprecedented scale, everything around him. The two aspects of the human environment, the natural and the artificial, are essential to the well-being of man and to the enjoyment of fundamental human rights, including the right to life itself.

This is how we understand, with reference to Article 8 of the European Convention on Human Rights, the violation of Article 15 of the EC and the principles set forth in Articles 43 and 45 of the EC.

With regard to Article 8 of the ECHR ("1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety, the economic well-being of the country, the prevention of disorder or of crime, the protection of health or morals, or the protection of the rights and freedoms of others.") we must remember that "domicile" is an autonomous concept, regardless of the definition given to it in the national legislation of each State. We will therefore establish as a criterion that set out in the Gillow v. United Kingdom case, which is based on the existence of sufficient continuing links with a particular place. Therefore, the concept of "domicile" will be determined on the basis of the factual circumstances, depending on the particular circumstances of each case. The aim of Article 8 of the ECHR is to protect the minimum conditions necessary for individuals to enjoy the rights associated with the right to housing, such as moral and physical integrity, the maintenance of personal relationships with other individuals, or the ability to settle in a community in safety.

The ECHR has progressively extended the content of this provision, as reflected in the case law established in López Ostra v. Kingdom of Spain (cited above), ECHR judgment of 9 December 1994, and Moreno Gómez v. Kingdom of Spain, ECHR judgment of 16 November 2004.

In both cases, there was environmental damage which, although it did not endanger human health, the ECHR ruled that it violated the right to respect for private and family life in the context of housing. In these judgments, the ECHR guarantees a space of freedom beyond the limited grounds on which the State may intervene and, on the other hand, imposes on the State the obligation to weigh up the legal interests at stake, in this case the environmental damage.

Similarly, in terms of the Court's approach to family life, we should mention the case of Verein KlimaSeniorinnen Schweiz and Others v. Switzerland ("KlimaSeniorinnen"), in which a Swiss association dedicated to protecting retired women against the effects of climate change, after alleging a violation of their human rights to privacy and family life, was granted a preliminary ruling by the Court of Switzerland ("KlimaSeniorinnen"), in which a Swiss association, KlimaSeniorinnen, dedicated to protecting retired women against the effects of climate change, after alleging a violation of their human rights to private and family life as a result of unambitious legislation by the Swiss Confederation on climate change, as well as a restriction of the right of access to justice and to a fair trial, the Swiss Federal Supreme Court having dismissed the domestic claim, the ECHR found a violation of Article 6 of the ECHR (right to a fair trial) and Article 8 of the ECHR (right to respect for private and family life), ordering Switzerland to pay compensation of €80,000.

It should be noted that this can be applied to the present case, in which victim status can be classified into three categories in the case law of the European Court of Human Rights: direct victims, indirect victims and potential victims.

In any of the three cases, there must be a link between the applicant and the damage they claim to have suffered as a result of the violation. A person is a direct victim when they can demonstrate that they have immediately suffered the effects of the contested measure and that, as a result, they have been personally and effectively affected by the violation of the agreement (e.g. ECHR judgment Lambert and others v. France of 5 June 2015). We consider the situation under discussion to be complex in that its examination is based on ***four factors:***

1.- ***The existence of multiple macro-farms*** *in the region of A Limia, which produce a huge amount of animal waste: chicken manure (poultry) and slurry (pigs and cows).*

2.- ***The*** *uncontrolled* ***management of waste*** *in the countryside (without analysis of medicines/hormones) in the development of extensive agriculture.*

*3.- **Leaching of slurry and chicken manure** into groundwater, causing nitrate contamination.*

*4.-Contaminated groundwater reaches the river and then the reservoir, where **cyanobacterial blooms** appear regularly. With regard to waste management, let us remember that 600 tonnes are produced in a single macro-farm and there are more than 300 in the area, which means that, given the quantity involved, they should be subject to diligent and valuable treatment. precisely because its source does not come from animals roaming freely in the wild, but from industrial production involving breeding and slaughter for subsequent sale in a small industrial area and region (A Limia); we understand that, based on the evidence and the final result, waste management is not efficient; it is therefore clear that all economic development must not only bring benefits, but also provide compensation in order to be sustainable.*

Macro farms involve, as is obvious but necessary to point out, a significant accumulation of manure mixed with antibiotics and, where applicable, other medicines administered to the animals. Although antibiotics are not relevant in quantitative terms on a small farm, however, when we are talking about a significant number of livestock or poultry, as previously mentioned on a single farm, there is an urgent need to analyse the manure, because although on the one hand there is the supply of antibiotics and/or medicines administered to sick animals, on the other hand we have another practice, which is the use of antibiotics as feed additives to reduce mortality and achieve rapid weight gain, generating greater profits and reducing losses. This is not to say that this is the case, but it must necessarily be controlled as a minimum precautionary measure in the interests of public health. Furthermore, as seen in the previous proceedings of this Section, there is no evidence of this practice, which leads to a second problem already mentioned in the reports when we referred to the bloom of cyanobacteria in the reservoir.

Therefore, when this Chamber reviewed the previous procedure, it found that the proposed model for manure management involved no management whatsoever, as it only referred to a long list of properties/farms where the manure generated would be disposed of, without specifying whether it was dry (dehydrated) or not, which in turn gives rise to different positions regarding environmental exposure and inherent risks. although it appears that it was not dehydrated, as there is no record of any measures in this regard, but without prior analysis or proper control of the places where it was received, in accordance with a minimum principle of precaution, which could lead to situations where animal waste was regularly dumped several times on the same farm, thus reducing fuel costs, and that the administration lacked the necessary control, since, as the authorisation warned, a sheet would be filled in at the request of the administration but without this being mandatory.

An example of this opinion is the complaint referred to in the facts, in which pig slurry was being dumped into a well through a concealed hose.

With regard to the need for waste treatment in this area, we should recall two judgments that illustrate the problem at its source, since a treatment plant was planned but ultimately never materialised:

1.- **On the one hand, the ruling of *the Supreme Court, Third Chamber, Administrative Litigation Section, Section 5, Ruling of 15 July 2009, Rec. 119/2004 in the administrative appeal against Royal Decree 1866/2004, of 6 September***, *approving the National Plan for the Allocation of Emission Rights 2005-2007, the ruling of which stated: "That, upholding the contentious-administrative appeal brought by the solicitor María Jesús Gutiérrez Aceves, on behalf of and representing the entities now known as E. On Distribución S.L. and E. On Generación S.L., we must declare and do declare that section 4.A.a. of the National Plan for the Allocation of Emission Allowances 2005-2007, approved by Royal Decree 1866/2004, of 6 September, is null and void, without expressly ordering the payment of the costs of the proceedings."* Thus, *Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 seeks to better fulfil the commitments of the European Union and its Member States through an effective European greenhouse gas emission allowance trading system, by facilitating the implementation of the system provided for in the Kyoto Protocol but with the intention of bringing it forward to 2008, which in Spain resulted in a series of state regulations, including Royal Decree Law 5/2004 of 27 August, which established a series of criteria, to which Royal Decree 1866/2004 of 6 September, approving the National Emission Allowance Plan 2005-2007, which establishes the criteria and methodologies for individual allocation, providing for an allocation of 86.40 Mt CO2/year for electricity generation. This ruling must be considered in conjunction with the Resolution of 23 January 2014 of the Directorate General of the Spanish Office for Climate Change, publishing the Agreement of the Council of Ministers of 15 November 2013, approving the final free allocation of greenhouse gas emission allowances to installations subject to the emission allowance trading scheme for the period 2013-2020 and for each year to each installation.*

Thus, in 2014, the Environmental Technology Centre for Livestock Waste Treatment in A Limia closed its doors. Its necessity was evident to the food company that encompasses most of the macro-farms in A Limia, given the amount of waste generated.

This point is connected to the report provided by the appellant from the Galician Society of Natural History (doc. No. 12), which states on page 7: "On the same plot of land there is a slurry treatment plant called the "Environmental Technology Centre" (CTM), which was built in 2007 by the Galician Livestock Waste Society (created by COREN and Caixa Galicia) with an investment of 22 million euros. By burning natural gas conducted through a specially built gas pipeline, the CTM was capable of drying 100,000 tonnes of slurry and reducing it to 15,000 tonnes of organic fertiliser for agricultural use, while also producing electricity for sale. The economic viability of the CTM was contingent on the collection of premiums for electricity production in this type of plant and it closed in 2014 when these premiums disappeared (the CSIC analyses were carried out in the period 2012-2013).

Simply review the photographs on pages 10 and 11 of the report to identify the source of the problem caused by the chicken manure deposit referred to by the aforementioned company as follows: "As in the previous case, an image (aerial photos from SIGPAC, Ministry of Agriculture, Food and Environment) is worth a thousand words to explain the origin of the contamination at sampling point CSIC-13, located in a sandy pond 400 m from a huge open-air chicken manure deposit directly on the ground. In the 'low season' for agricultural demand for these organic fertilisers, up to 600-800 tonnes of chicken manure pile up on the 2 ha of land covered by PARCELA000 and 10631 of POLÍGONO000 in Sandiás. The environmental problem is exacerbated because much of the "low season" coincides with the rainiest months, and the expected happens: rain seeps through the piles of chicken manure fermenting in the open air, creating black leachates loaded with nutrients (including antibiotics and hormones) that pass directly into the drainage network and thus into surface and groundwater, starting with the nearest sand pits.

The photograph on page 11 of the report reflects the total lack of waste management, with a huge accumulation of manure that is difficult to justify on the basis of sustainable development and which, without further evidence, justifies the underlying pollution, especially when, as previously mentioned, the company itself that would recover the waste had already warned of this in its claim. Despite this, macro-farms continued to be built and authorised, and the waste was not managed, ending up being dumped/accumulated in fields or pits, totally or partially favouring intensive agriculture due to its nitrogen content, which passes into the environment (groundwater) as nitrates.

This highlights the conclusion reached by the report when it states: "3. The As Conchas reservoir (8 km downstream from the A Limia plain) was built in 1949, when the population of the municipalities of A Limia was almost double what it is today. Despite this, its waters remained clean for around half a century. From 1989 onwards, industrial livestock farming began to grow spectacularly and steadily on the A Limia plain, causing the number of livestock in stables to increase by around 2,200-2,300 LU per year. After the turn of the century, with a population reduced by 40% compared to 1950, but with a livestock load already exceeding 40,000 LU, episodes of toxic cyanobacteria proliferation began in As Conchas.

2.- ***The Judgment of the Supreme Court, Third Chamber, Contentious-Administrative Section, Section 3, Judgment 770/2017 of 5 May 2017, Rec. 685/2014, in which GALLEGA DE RESIDUOS GANADEROS SA, represented by the Attorney Ramón Rodríguez Nogueira, appealed against the Judgment of the Provincial Court of A Coruña, Section*** *2**017, Rec. 685/2014**, appealing on behalf of GALLEGA DE RESIDUOS GANADEROS SA, represented by the solicitor Ramón Rodríguez Nogueira, with the legal assistance of Francisco Javier García Martínez, against Royal Decree 413/2014 of 6 June and against Order IET/1045/2014 of 16 June, regulating the activity of electricity production and setting the remuneration parameters for installations using renewable energy sources, cogeneration and waste, reached a partial favourable ruling.*

It is interesting to note this section of the ruling, which already warned of the magnitude of the problem precisely alleged by the appellant: "Throughout its statement of claim, the plaintiff refers to the fact that it owns a cogeneration plant associated with the treatment of slurry, with a capacity of 14.804 MW, located in Sarreaus, Ourense. It states that cogeneration plants are characterised by being highly efficient industrial facilities capable of generating electricity and useful heat in the same production process. Their implementation and commissioning involve high investment and operating costs. It also alleges that there is the particular circumstance that one of the cogeneration plants (Sarreaus) is associated with the treatment of slurry, an organic waste generated in pig farms, which can become a highly polluting product if not managed properly. (Emphasis added) For clarification purposes in relation to this dispute, it should simply be noted that Sarreaus is a Spanish municipality in the province of Orense, in the autonomous community of Galicia, located in the municipal area belonging to the region of Limia.

In which the High Court ruled that: "Order

IET/1045/2014 has ignored the unique characteristics of slurry treatment plants, which have always been considered as electricity production facilities distinct from cogeneration plants and closely linked to the environmental commitment to waste treatment and reduction; this consideration is maintained in Royal Decree 413/2014 (second additional provision, paragraph 8), which continues to require the treatment of slurry as a condition for receiving specific remuneration.

The fact that all existing slurry treatment facilities in Spain have ceased operations is not in itself conclusive evidence, but it is undoubtedly indicative of the dysfunctions caused by the parameters established in Order

IET/1045/2014.

In fact, the expert evidence presented has shown that, by equating slurry treatment plants with conventional cogeneration facilities, Order IET/1045/2014 has assigned values and parameters to the former that do not reflect reality or correspond to industry standards, both in terms of investment and operating costs and in terms of other operating income (sale of useful heat) and weighting of self-consumption. These are all aspects in which the contested Order must be considered contrary to law, as it does not establish a standard installation that makes it possible to obtain a reasonable return, contravening the legal principle of adequate remuneration for slurry treatment plants (Article 30.4 of Law 54/1997, of 27 November, on the Electricity Sector, as amended by Royal Decree-Law 9/2013 of 12 July, and Article 14 of Law 24/2013 of 26 November on the Electricity Sector).

In addition to these two references to the need for slurry treatment in this case involving pigs, the ruling of 20 June 2016, handed down in administrative appeal 1/485/2014, is highly illustrative: "The origin of slurry treatment facilities lies in European Community law aimed at combating water pollution, and in particular Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (the Nitrates Directive) and Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules concerning animal by-products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal By-products Regulation, also known as the SANDACH Regulation).

For failing to comply with the aforementioned Community rules, the Kingdom of Spain was condemned on several occasions by the Court of Justice of the European Communities (now the Court of Justice of the European Union) (judgments of 1 October 1998 - ECJ 1998\233-; 13 April 2000 - ECJ 2000\81; 8 September 2005 - ECJ 2005\260).

Based on these data, we already reflected on the urgent need for slurry treatment and the need for responsible and sustainable management, a clear legal fact that prevented the opening of the plant by the main food company on which the macro-farms depended, and that in this process the transfer of waste for recovery was simply omitted, with authorisations continuing to be granted under the sole umbrella of the land for the collection of tonnes of waste. In fact, no evidence has been provided of waste management at the macro-farms in A Limia, and when we found more than 300 macro-farms concentrated in several neighbouring municipalities and a destination for farms receiving manure deposits, also small in size, so that we can easily ascertain the origin of the problem without the need for a detailed examination by experts, in fact, the beneficiary of the production itself stated this, as previously referred to in the Judgment, due to the environmental risk posed by leaving the waste untreated.

Therefore, when the consolidated report (evidence provided by the appellant) states:

"Data from successive water management plans for the river basin district reveal widespread pressure from very high nitrogen and phosphorus inputs in the case of livestock farming and (very) low pressure in the case of urban wastewater. Similarly, official statistics (INE, IGE) reveal that the livestock load in the Limia basin up to the SAICA water quality control station in Ponteliñares would be equivalent to that of 1.5-2 million people, when the human population is only 21,000, meaning that the latter's contribution to nitrate and phosphate pollution would be minimal. Official data from the Miño-Sil Hydrographic Confederation and the Regional Ministry of Health show a progressive worsening of nitrate levels in the existing groundwater body.

under the plain of A Limia, to the extent that various water catchments for public supply have greatly exceeded the legally established limits for drinking water, almost tripling them in the most recent analyses.

Therefore, it simply refers to something that, given the magnitude of the waste in comparison to that generated in a large city, is simply logical, with the aggravating factor that in a large city it is managed through a WWTP and here it is not, and that it should have been assessed and dealt with at the time when applications were made to open the macro farms, so that the persistent and degrading pollution of the aquatic environment did not become chronic.

The following conclusions from the reports provided reinforce the above assertion:

1.- ***ENVIRONMENTAL HYDROGEOLOGICAL STUDY OF A LIMIA (MARTÍN ET AL., CHN, MMA, 2007)*** *"The parameters that show values indicative of poor water quality are all associated with problems related to poor agricultural practices and inadequate waste management."*

2.- CSIC ISOTOPIC STUDY FOR THE CHMS ON THE ORIGIN OF NITRATES IN

THE LIMIA BASIN

The document by Prof. Delgado Huertas entitled "Actions for quantifying the origin of diffuse pollution due to the presence of nitrates in the Limia river basin through an isotopic study", commissioned by the Miño-Sil Hydrographic Confederation (hereinafter CHMS), highlighted that:

- "It is striking that more than half of the samples have ? 15N values higher than +10 ‰ (AIR), which would indicate that the nitrates are associated with livestock or urban waste (Kendall, 1998; Kendall et al., 2008; Nestler et al., 2011)."

- "The 15N values of inorganic fertilisers are close to 0 ‰ (AIR), since their manufacturing method involves the use of atmospheric nitrogen (Kendall, 1998; Vitoria et al., 2004) ... no sample falls directly into this field and only a small number of samples are close to it."

- "In oxygen-poor environments, denitrification processes associated with bacterial activity produce kinetic fractionation (18ξ/15ξ≈ 0.5) that affects both nitrogen and oxygen isotope values (Chen and MacQuarrie, 2005; Knöller et al., 2011). However, the Limia River environment is generally oxidising, so these should not be the dominant processes. We can only contemplate this scenario in the storage and management of livestock waste (poultry, slurry, etc.) where the environment is more reducing.

- "As can be seen, the data obtained are not consistent with massive use of nitrates and their denitrification (red line in Figure 5) ... However, a large majority of samples can be explained by a mixture of natural nitrates and nitrates from farms, with a possible evolution related to denitrification (Fig. 5). This once again supports the importance of livestock waste as the source of nitrates in the Limia river basin."

And it concluded that:

1. "Nitrates are highly enriched in 15N. This indicates a significant contribution from livestock waste and/or the presence of poorly treated urban waste.

2. It is surprising that relatively few samples retain a typical signal of inorganic fertilisers. Denitrification-nitrification processes could be altering them.

3. Relatively high isotopic values of oxygen in nitrates, which are not associated with low values in δ 15N, would indicate high values of 18O in the oxygen (gas) involved in the formation of nitrate. The most coherent explanation would be the contribution of residual edaphic oxygen after respiration processes. This is consistent with the maturation of livestock waste that may have been used as fertiliser.

4. It is necessary to monitor the isotopic evolution of nitrates in the basin in order to verify compliance with the actions carried out. Furthermore, different biogeochemical processes overlap, making assessment complex, so it is advisable to continue monitoring at least quarterly. Isotopic analysis of N2 and N2O should be added, as well as a study of the O2/N2 ratios. These parameters are of great interest for estimating denitrification processes. It would also be interesting to analyse the
?18O of dissolved oxygen in water and oxygen in soils or present in areas of accumulation of chicken manure or slurry.

3.- STATISTICAL, GEO-HYDROGRAPHIC, DEMOGRAPHIC AND

CARGAGANADERA CONDUCTED BY SGHN BASED ON THE ISOTOPIC STUDY

CSIC FOR THE CHMS (unofficial document but relevant in terms of its data, at the request of the Galician Society of Natural History (SGHN), which concludes that there is a lack of control over the farms receiving the waste:

During the "low season" for agricultural demand for these organic fertilisers, up to 600-800 tonnes of chicken manure pile up on the 2 hectares of land covered by PARCELA000 and 10631 in POLÍGONO000 in Sandiás. The environmental problem is exacerbated because much of the 'low season' coincides with the rainiest months and the expected happens: rain infiltrates the piles of chicken manure fermenting in the open air, producing black leachates loaded with nutrients (including antibiotics and hormones) that pass directly into the drainage network and thus into surface and groundwater, starting with the nearest sand pits.

4.- HYDROLOGICAL PLAN FOR THE SPANISH PART OF THE LIMIA BASIN

LIMIA BASIN, 2009-2015 CYCLE. Chapter 8. Assessment of compliance with environmental objectives.

The ecological potential of the As Conchas reservoir was "moderate" (Table 6 of the document), taking into account the "moderate" potential according to the phytoplankton quality element (Table 3), the general physical-chemical parameters (Table 5) and also the fish quality element (Table 4), although the latter worsened from 'moderate' in 2006 to 'poor' in 2008. Appendix 8.7 acknowledges that 'Cyanobacterial blooms may occur in the reservoir (in 2006). The physical-chemical conditions indicate some stress; hypoxia, the presence of SH2 and high concentrations of ammonium (>1 mg/L) are detected in the hypolimnion... The trophic status is mesotrophic to moderately eutrophic."

At this point, it is important to recall the definition of Directive 91/676/EC (Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources) on eutrophication, pollution and vulnerable zones and its meaning:

“i) ‘eutrophication’: the increase in the concentration of nitrogen compounds, which causes accelerated growth of algae and higher plant species and causes negative changes in the balance of organisms present in the water and in the quality of the water itself.”

j) “pollution”: the introduction of nitrogen compounds of agricultural origin into the aquatic environment, directly or indirectly, which has consequences that may endanger human health, harm living resources and the aquatic ecosystem, cause damage to recreational areas or cause nuisance to other legitimate uses of the water;

k) “vulnerable area”: an area of land defined in accordance with Article 3(2). Article 3 of that

directive reads as follows:

"2. Member States shall designate, within two years of notification of this Directive, as vulnerable zones all known areas of their territory from which runoff flows into the waters referred to in paragraph 1 and which contribute to pollution.

They shall notify the Commission of this initial designation within six months."

It is important to note that, in view of the evidence, all the parameters for a vulnerable zone are met.

5.- HYDROLOGICAL PLAN FOR THE SPANISH PART OF THE LIMIA BASIN,

2016-2021 CYCLE

In Chapter 3, "Description of uses, demands and pressures," in

"Annex 8. Environmental objectives and exemptions":

The data sheet for the Lindoso reservoir (located immediately downstream) expressly acknowledges a "significant influence from As Conchas (highly eutrophicated), which may cause eutrophication, the entry of nutrients and cyanobacteria into the reservoir2 (...) "The achievement of the environmental objectives for the watercourses of the A Limia plain must be postponed until 2021 for the time being, for which the appropriate extension is requested."

6.- HYDROLOGICAL PLAN FOR THE SPANISH PART OF THE LIMIA BASIN,

2022-2027 CYCLE.

“The groundwater body ES010MSBT011-006 Xinzo de Limia is in poor overall condition. This body has a proven chemical impact and a proven nutrient impact, and the significant pressures identified that lead to this impact are as follows:

• 1.1 Urban wastewater • 1.4 Non-IED industrial plants (Industrial Emissions Directive) • 2.2 Agriculture

• 2.5 Contaminated soils / Abandoned industrial sites

However, as is well reasoned in the consolidated report, this assessment, when applied to the reality on the ground and the maps provided in the report:

The map showing the intensity of diffuse pressure from urban runoff/sewerage, estimated based on the percentage of land occupied, shows that the values in the Spanish Limia basin are among the lowest in the entire Miño-Sil river basin district, obviously excluding the sparsely populated mountain ranges.

While the diffuse pressure from nitrogen surpluses due to non-stabled livestock farming in the Spanish Limia basin is among the lowest in the entire river basin district (2.5-5 kg/ha) that due to livestock farming (60-101 kg/ha) is among the highest and more than 10 times that due to agriculture. While diffuse pressure from phosphorus surpluses due to non-stabled livestock farming in the Spanish Limia basin is among the lowest in the entire river basin (less than 1 kg/ha, see previous page), those due to livestock farming (5-28 kg/ha in most of the basin) are among the highest and are more than 10 times higher than those due to agriculture.

To conclude, an objective fact stands out: "The As Conchas reservoir remained oligotrophic and with (very) good water quality for more than forty years, when upstream of the dam wall the human population was 2.5 times greater than today and, in addition, wastewater treatment was minimal or non-existent, but the livestock load was much lower. The water quality of the As Conchas reservoir deteriorated very rapidly over the last 30 years to its current (hyper)eutrophic state, coinciding exactly with a huge increase in livestock numbers, which have quadrupled over this period. Considering that the production of faecal waste by one Large Livestock Unit (LLU) or Total Livestock Unit (TLU) is equivalent to that of 15-20 people, the livestock load in the Limia basin up to the SAICA water quality control station in Ponteliñares would be equivalent to that of 1.5-2 million people, when the human population is only 21,000. Even if all the sewage from the population centres were discharged untreated (which is not at all true), its contribution to the problem of nitrogen and phosphorus pollution would be only 1-1.5% of the total.

6.- IMPROVEMENT PROJECT FOR THE IRRIGATION USE OF THE 42

GROUNDWATER ABSTRACTIONS "A LIMIA 2022"

Annex 23, "Analysis of water quality for irrigation," of this project carried out for the Ministry of Agriculture, Fisheries and Food (Marra Bolaño, 2023) contains the analysis of groundwater from 40 boreholes drilled in the A Limia plain for the new irrigation plans. In addition to other variables, the analyses include the determination of nitrate and phosphate content, with the following results:

- Nitrates. Four of the samples (10% of those analysed) exceeded the legal limit for drinking water (50 mg/l), one was close to the limit (47 mg/l) and four others would be considered poor quality as they exceeded 25 mg/l.

- Phosphates. In 38 of the samples (95% of those analysed), the limit of 10 µg/l recommended by the United States Environmental Protection Agency (USEPA: Gibson et al., 2000) to guarantee the ecological quality of lakes and reservoirs was exceeded.

7.- ANALYSIS OF THE CHMS FOR SEPTEMBER 2024

On 25 September 2024, the Miño-Sil Hydrographic Confederation analysed water samples collected at five points in the municipality of Os Blancos (points P1 to P5 in the table below) and three in Xinzo de Limia (points P6 to P8 in the table).

Only one of the points analysed (P7) showed normal nitrate values, two (P2 and P8) exceeded the legal levels of 37.5 mg/l for the declaration of affected waters (Royal Decree 47/2022) and at the remaining five points, the maximum of 50 mg/l of nitrates for drinking water (Royal Decree 3/2023) was exceeded, with excesses between 19.3 and 67 mg/l, i.e. between 38.6% and 134% above the legal limits.

8.- ANALYSIS OF GROUNDWATER BODY 011.006 XINZO A

LIMIA OF THE CHMS.

Data from the report that is corroborated by existing data and therefore accurate:

"Official data provided to the SGHN by the Miño-Sil Hydrographic Confederation (CHMS) reveal that nitrate pollution in the groundwater of A Limia is steadily worsening. The average nitrate concentration in the 2020-22 three-year period (19.4 mg/litre) was already 49.2% higher than that recorded in the 2014-16 three-year period (13.0 mg/litre). Only half of the sampling stations (just 11 out of 25) never recorded nitrate concentrations above 30 mg/litre, indicating a worrying water quality. In the 2020-22 three-year period, the frequency of samples analysed that were on the verge of being legally "unpotable" (13.1%) almost tripled that of previous periods (4.5% and 5.0%). Even more worrying, samples that exceeded the legal limit of 50 mg/litre (i.e. "unpotable") in the 2020-22 three-year period already accounted for 6.8% of the total, doubling or tripling the percentages observed in the previous three-year periods (3.6% and 2.1%).

If we add to this the proven properties of manure for rapid plant growth, we arrive at the second problem, which is intensive agriculture, which can be supplemented with chemical fertilisers, further exacerbating the problem.

This dynamic on the land year after year led to progressive degradation due to the structure and type of the soil itself, with nitrates leaching into the groundwater and from there into the river, raising the levels, and producing a particular concentration in the dams precisely because they are walls where the water with chemicals settles, causing the bloom of cyanobacteria that is as harmful as that described in this procedure.

Doubts also arise regarding two aspects of the contaminants: firstly, nitrates and secondly, cyanobacteria.

***Firstly**, **nitrates** are initially regulated by the Water Framework Directive (WFD), which is the benchmark standard for water protection. It establishes that the protection of water against pollution from any source (point or diffuse) must be based on the principle of the "combined approach", which in the case of agricultural sources this principle involves limiting pollutant emissions at source and ensuring compliance with the environmental objectives for the receiving environment.*

Specifically, with regard to nitrate pollution, the main legal instrument is Directive 91/676/EEC, known as the Nitrates Directive, which was transposed into national law by Royal Decree 261/1996 of 16 February on the protection of water against pollution caused by nitrates from agricultural sources, recently replaced by Royal Decree 47/2022 of 18 January on the protection of water against diffuse pollution caused by nitrates from agricultural sources.

Regarding the impact of nitrates, simply refer to a public and well-known document from the Ministry of Ecological Transition and Demographic Challenge (website Miteco.gob.es/es/temas/estado-y-calidad-de-las- aguas/ protección-nitratos-pesticidas/impacto-calidad- agua.htlm), which continues to illustrate the problem and confirms the previous conclusions:

*"**Impact of nitrates and pesticides on water use and quality** Agriculture requires the use of fertilisers or manure that are applied to the soil to provide nutrients to plants and thus facilitate their growth. Common fertilisers include manure, fish farm waste and sewage sludge; synthetic compounds called chemical fertilisers can also be used. Fertilisers contain chemical elements that act as nutrients, the main ones being nitrogen, phosphorus and potassium.*

The use of fertilisers is a risk to the environment if used in excess, as excess nutrients can contaminate surface and groundwater. The most common contamination is caused by nitrate that reaches water through filtration or runoff. Another agricultural source of nitrates is the oxidation of ammonia from animal waste. To prevent water pollution by nitrates, good agricultural practices must be applied so that products used in plant nutrition or soil improvement meet two fundamental requirements: agronomic efficacy and no harmful effects on health and the environment. In this regard, the European Union approved Regulation (EC) 2003/2003 of 13 October of the European Parliament and of the Council on fertilisers and other regulations developed in Spain, which are coordinated by the Ministry of Agriculture, Food and the Environment.

To prevent water pollution by nitrates, good agricultural practices must be applied.

Nitrate pollution has negative effects on the aquatic environment and human health, the most significant of which are:

- ***Eutrophication of surface waters****: excess nutrients in the water (nitrogen and phosphorus) cause accelerated growth of phytoplankton and other aquatic flora species, disrupting the balance of the aquatic ecosystem. Sometimes this growth is so sudden that it can be invasive and manifests itself in the form of blooms, proliferations or "blooms".*

In addition to altering the ecosystem, blooms have negative effects on water quality. Certain species, such as cyanobacteria, which are capable of secreting toxins (microcystins) into the water, can appear and dominate. The water can take on a greenish, blue-green, reddish or brown colour, depending on the dominant species in the bloom. Turbidity and suspended matter increase, preventing light from reaching deeper layers; dissolved oxygen is reduced, until depletion or anoxia occurs, which can alternate with states of supersaturation; bad odours are generated by the emission of methane and hydrogen sulphide; the volume of organic sludge in the bed increases, etc. All these changes alter aquatic life, with anoxia being particularly significant as it causes fish mortality. Eutrophication can also lead to a significant increase in vegetation associated with watercourses and favour the development of invasive species, etc.

- ***Water quality deterioration****: in addition to deterioration caused by eutrophication, if the nitrate concentration exceeds 50 mg/L, the water is not suitable for human consumption. According to the WHO, this value must be respected to protect bottle-fed infants from methaemoglobinaemia.*

According to data published by the European Commission for the period 2015-2019, Spain is one of the European countries most affected by nitrate pollution in water.

We can therefore state from the outset that nitrates are a pollutant. Secondly, we must assess the risk posed by nitrates.

With regard to the impact of nitrates on people, assessing the right to life argument, there are discrepancies between the regional administration and the appellant's reports in relation to cancer; we must begin this examination with the definition provided by the World Health Organisation with regard to cancer, as follows: "Cancer is a broad term used to refer to a group of diseases that can originate in almost any organ or tissue of the body when abnormal cells grow uncontrollably, exceed their usual limits and invade adjacent parts of the body and/or spread to other organs. This last process is called 'metastasis' and is a major cause of death from cancer. Other common terms for cancer are 'neoplasm' and 'malignant tumour'. Cancer is the second leading cause of death worldwide; in 2018, it caused 9.6 million deaths, or one in six deaths."

It is therefore a very serious, life-threatening disease.

The report states that, according to documentation provided by the Regional Government of Galicia, "Based on the available scientific evidence, it cannot be concluded that there is an association between nitrate and nitrite and cancer."

The International Agency for Research on Cancer (IARC), which is part of the World Health Organisation, has assessed nitrate and, due to its ingestion, nitrite as probably carcinogenic to humans, including nitrite in Group 2A, when ingested under conditions that result in nitrosation in the body. The mechanism of carcinogenesis consists of reduction to nitrite, which reacts with secondary amines and amides in the body to form nitrosamines and nitrosamides, which are known carcinogens.

Therefore, although there is no data on the role of nitrates themselves in the development of cancer, the transformation of nitrates in the body by reduction to nitrites and subsequently to nitrosamines can be considered a relevant factor in the development of cancer. However, this does not imply that all people with high nitrate intake in water will develop cancer.

It is contradictory and subjective, and not otherwise challenged in court, which limits its value as evidence, the report submitted as documentary evidence by the Xunta de Galicia entitled 'Unified report on environmental health' when it refers to nitrates and nitrites in its conclusions or final considerations that, based on the available scientific evidence, it cannot be concluded that there is an association between nitrate and nitrite in drinking water and cancer, when on page 23 of its report it already states that nitrate or nitrite ingested under conditions that cause endogenous nitrosation are classified as agents with limited evidence in humans for stomach cancer and that in the latest monograph on nitrate and nitrite published in 2010, ingested nitrate and nitrite that can form nitrosamines were classified as probably carcinogenic to humans and includedin Group 2A. It also notes that a growing number of studies have found an association between nitrate levels in drinking water and certain forms of cancer.

In our opinion, excessive consumption of this contaminant through food or water poses a real and direct threat to life.

***Secondly**, **cyanobacteria**, as can be seen from the reports provided, eutrophication, understood as the improvement of the natural biological production process in rivers, lakes and reservoirs, caused by increased levels of nutrients, generally composed of phosphorus and nitrogen, can result in the visible appearance of cyanobacteria or algae blooms (Cyanobacteria bloom in the As Conchas reservoir).*

The decomposition of this organic matter can lead to a decrease in dissolved oxygen in the water, which in turn can cause secondary problems such as fish mortality due to lack of oxygen and the release of toxic substances or phosphates that were previously attached to oxidised sediments. Phosphates released from sediments accelerate eutrophication, thus closing a positive feedback loop. Some lakes, or in this case reservoirs, are naturally eutrophic, but in many others the excess nutrients are anthropogenic in origin, resulting, as in the present case, from runoff of fertilisers and manure spread in agricultural areas.

The CHMS is also concerned about the reports sent to local councils, resulting in a ban on bathing, and the reports from the appellant regarding concerns about bathing or drinking water in relation to cyanobacteria. if water containing high concentrations of toxic cyanobacteria or their toxins is ingested (in drinking water or accidentally during recreation), it poses a risk to human health, a fact that is also recognised by the World Health Organisation.

We highlight this paragraph from the appellant's consolidated report: "It should be noted that many of these bacteria (e.g., thermotolerant enteric species) present in the intestines of livestock are eliminated through their faeces and end up in the land of the A Limia region and the Limia River basin, which are located upstream of the As Conchas Reservoir and are carried into the reservoir by runoff.

The bacteria arrive alive at the reservoir and many of them are pathogenic species capable of causing dangerous diseases in humans. Among the bacteria detected in the As Conchas reservoir are antibiotic-resistant bacteria, which is extremely worrying in a context where the WHO maintains that resistant bacteria will be the main public health challenge within a few years (some estimates calculate that up to 1 in 4 people alive today could die from an infectious disease caused by a multi-resistant bacterium).

In any case, cyanobacterial blooms would require a comprehensive analysis by the regional government prior to any authorisation for bathing or, given that blooms are now commonplace, consideration of a ban on bathing as a minimum precautionary measure, since if the type of cyanobacteria identified by the appellant's experts is correct, the danger to life is real and serious.

With regard to the methodology, it should simply be noted that an erroneous diagnostic methodology does not produce or create dangerous cyanobacteria such as those found in the report. In any case, a contrasting report could have been presented on the samples taken, which was not done, despite being subject to a cyanobacteria bloom.

The methodology used by the experts who signed the joint report is disputed, on the understanding that it is incorrect. However, without going into methodology, the evidence that should be presented is a complete comparative analysis confirming the absence of dangerous toxins in the As Conchas reservoir, all this without mentioning the contribution by local authorities of CHMS reports reflecting the sampling analyses that led to the closure of bathing on the same dates when, on the one hand, the regional administration classified the water status as excellent and, on the other hand, the CHMS provided analyses declaring a high risk to water quality.

In its statement during the trial, the Regional Government of Galicia praised its management in terms of the high quality of Galicia's bathing waters in the area under consideration. However, the continued proliferation of blooms in the reservoir calls this assessment into question, to say the least, and the precautionary closure of the beach at various times is also contradictory to this assertion.

The unified report on this ambient light provided as documentary evidence by the Regional Government of Galicia assesses cyanobacteria and their toxicity. It should be reiterated that this report was not subject to cross-examination, as no statement was requested from the experts involved, and therefore it is considered to be very limited in terms of evidence. Notwithstanding this, critical aspects of the consolidated report provided by the appellant are assessed, and the assessment of the toxicity of cyanobacteria blooms, which have posed a risk since 2011, is in agreement with the appellant and its report, leading to the development of a

monitoring protocol in 2012 in response to the possible appearance of a massive bloom of cyanobacteria in reservoirs where bathing water is registered. The report praised the Xunta's management in that, when a possible risk was detected, it limited the population's exposure to it by prohibiting bathing and water activities in the affected areas. Furthermore, it states that the water from the As Conchas reservoir is not used for human consumption. The report criticises the appellant's assessment of adequate exposure and the carcinogenic aspects of microcystin in animals, suggesting that although a carcinogenic effect is estimated, it is not conclusive. With regard to the serious health risks of increased risk of liver and colon or rectal cancer, it does not provide sufficient scientific evidence to establish a causal link. Finally, with regard to bacteria, it does not describe the sampling and analysis methodology, nor does it show the analysis reports for the samples collected. Reference is also made to bioaerosols, citing studies that warn of the danger and others, such as in the case of lakes in New Zealand, that inhalation may not present an acute or chronic danger to humans.

We understand that this report, which we reiterate has not been subject to contradiction, is extremely confusing in that, while it warns of carcinogenic aspects of cyanobacteria, it also refers to other studies that limit this assessment. Furthermore, it warns of the risk of microcystin but limits the assessment of this risk, warns of the risk of bioaerosols but limits the importance of this risk, and so on with regard to antibiotics and bacteria.

The assessments made are contradictory and not very credible for the purposes of the evidence, as they contradict the danger levels that led to the closure of the bathing area, do not provide laboratory reports proving the absence of cyanobacteria, antibiotics or bacteria in the bathing water, praise the regional administration's prevention efforts but fail to mention that these events are repeated over time, in short, they criticise the methodology used in the unified report when this methodology is accepted by other administrations for obtaining water quality reports.

With regard to the fact that the water from the reservoir is not used for drinking, this is true, although it is a biased and limited view of the problem, as it should be remembered that we are dealing with the Limia River, which, although it has reservoirs along its course, is a cross-border river whose water is used for human consumption on the Portuguese side.

Referring to compliance with regulations for the sake of personal health is also a very limited and unrealistic criterion when there is data suggesting that additional controls are necessary.

For example, when Royal Decree 140/2003 of 7 February establishing health criteria for the quality of water intended for human consumption came into force, until it was repealed by Royal Decree 3/2023 of 10 January establishing technical and health criteria for the quality of water intended for human consumption, its control and supply, 20 years had passed, and the parameters were updated in 2023 in relation to chemicals of emerging concern that already existed in 2006/2007, which gave rise to numerous lawsuits in other countries precisely because of their serious damage to health; This has led to the current situation, where there is a possible existence of toxic antibiotic-resistant cyanobacteria, as evidenced by blooms, even though they are not covered by the test parameters in the regulations derived from DIRECTIVE 2006/7/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 February 2006 concerning the management of bathing water quality and repealing Directive 76/160/EEC, which is updated in Decree 175/2022, of 13 October, on the health monitoring of bathing waters in Galicia, they must, as a minimum precautionary measure, be assessed prior to the opening of a beach for bathing or, where applicable, for sports activities, and, as indicated by the experts, this is done in other autonomous communities such as the Community of Madrid in the specific case of cyanobacteria, which require strict control due to their serious harm to health.

It should be remembered that Law 14/1986, of 25 April, on General Health, establishes the obligation of public health administrations to focus their actions, as a matter of priority, on health promotion and disease prevention. The aforementioned Law provides that activities and products that may have negative consequences for health, either directly or indirectly, shall be subject to control by the public authorities. One such activity is the recreational use of water, specifically natural bathing waters.

At the regional level, Law 8/2008, of 10 July, on health in Galicia, considers public health services to be part of healthcare services, which include the establishment of production standards and health protection measures against environmental risks, such as those arising from the use of bathing water, among others.

Thus, with reference to the effects of assessing the necessary application of the precautionary principle, Article 20 of Decree 175/2022 refers to "the suitability of bathing water during the bathing season".

The suitability of bathing water during the bathing season shall be determined at all times by the following criteria:

c) Where applicable, by visual inspection of water transparency, the presence of jellyfish, tar, glass, plastic, rubber, wood, floating matter, surfactants, organic debris, proliferation of macroalgae or marine phytoplankton, and any other waste or organism that may pose a risk to the health of bathers.

Furthermore, following the appellant's allegation of a new fact, which is just one more in a long list of incidents of water degradation in the reservoir and which coincided with the trial, a new bloom of cyanobacteria was reported.

In addition to the above, in response to the new information provided in the attached report by the defendant local councils, an analysis sheet from the CHMS has been submitted, specifically the report dated 2 June 2025 from the Head of Water Quality Control and Services of the Confederation, which refers to cyanobacteria and bathing:

In view of the results obtained and in relation to cyanobacterial biomass, it is indicated that, as of 13 May 2025, at the three points of the As Conchas reservoir studied:

The number of cyanobacteria cells is greater than 100.OOO cells/ml, which implies a ***HIGH risk*** *level in bathing areas containing cyanobacteria according to the level of probability of adverse effects on humans at all points studied, except in the central area between the river beaches at a depth of 1.3 m, which would be at a MODERATE risk level.*

The concentration of cyanobacterial biovolume exceeds the threshold of 8 mm3/L set by the World Health Organisation as the ALERT LIMIT for recreational use in all points studied, except in the central area between the river beaches at a depth of 1.3 m, where it is lower.

Another report dated 5 June 2025 is provided below, which states:

"In view of the results obtained and in relation to cyanobacterial biomass, it is indicated that, as of 26 May 2025, at the three points of the As Conchas reservoir studied:

The number of cyanobacteria cells is greater than 100,000 cells/ml, which implies a ***HIGH risk*** *level in bathing areas containing cyanobacteria according to the level of probability of adverse effects on humans. The concentration of cyanobacteria biovolume is above the threshold of 8 mm3/L set by the World Health Organisation as the ALERT LIMIT for water intended for recreational use.*

This latest report, which demonstrates the ongoing degradation of the reservoir's waters, warns that: ***"In view of the results obtained, it appears that, as of 26 May 2025, photosynthetic activity has increased at all three control points compared to the previous campaign****.*

Furthermore, the contribution of cyanobacteria to the concentration of chlorophyll-a is predominant compared to other components of phytoplankton."

It goes on to add that this reflects a real, not potential, danger, corroborating the assessment of the appellant's experts when they state:

Similarly, cyanobacteria identification/quantification analyses were carried out on the river beaches and the dam area of the reservoir. The results obtained are presented in Tables 3 and 4 and show that the species Dolichospermum sigmoideum, a potential toxin producer, is dominant in terms of cell number and biovolume.

Therefore, when the expert Mr Roberto, former Director General of Public Health in Madrid, tells us in his report that "Cyanobacteria are an important and very ancient group of prokaryotes. Their colour and name derive from the pigment called phycocyanin. The metabolites of cyanobacteria can be lethal to wildlife, domestic animals and humans. Cyanotoxins chemically belong to one of the following three groups: cyclic peptides, alkaloids and lipopolysaccharides. Not all cyanobacterial blooms are toxic, but those found in the Limia are. There are no differences in appearance between toxic cyanobacteria and those that lack this property, and they can only be distinguished by analytical methodology. The most important cyanotoxin is a cyclic heptapeptide known as microcystin-1, produced by various species of Microcystis, Anabaena, Nostocy Planktotrix. Pure mountain waters, springs, or pristine marshes (as Limia was fifty years ago) never develop blooms of these algae. However, in bodies of water such as the current Limia, where abundant amounts of nitrates, phosphates and organic nutrients from discharges are concentrated, combined with atmospheric warming due to global change, abundant colonies of

these toxic algae. Whether or not a strain (lineage) of cyanobacteria produces microcystins depends on whether or not it has the group of genes that encodes the enzyme system necessary for their production. There are several forms of microcystins, which differ slightly according to minor structural variations. There is also an equivalent pentapeptide form, nodularin, which has a very similar toxic action. The immediate effects of microcystin ingestion include gastroenteritis, hepatitis and pneumonia. These statements are consistent with the reports in the literature cited in your report and reflect a clear danger, together with the associated diseases explained therein.

The Regional Government of Galicia has submitted a technical report referring to the parameters analysed, which, as stated above, we cannot agree with when referring to toxicity warnings. Therefore, as a minimum precautionary measure, it should be extended to include the findings reported by the expert witnesses, since, even if their methodology is rejected or not shared, their professional technical excellence, in view of their professional achievements, should raise serious doubts that, in the interests of the community of individuals who could be affected by contamination through the use of bathing water and/or recreational sports, the veracity or otherwise of their findings regarding bacteria that are potentially dangerous due to their toxicity should be verified, especially when these experts are also informants and are involved in actions on behalf of official bodies.

Therefore, given that bathing water quality has been classified as excellent from 2015 to 2024, it is curious, to say the least, that following the new allegation and frequent cyanobacterial blooms, the water had to be given a high risk alert.

Furthermore, in its opposition to the new facts, the Galician Regional Government acknowledges the bloom of cyanobacteria and states that it has not been inactive, arguing that it is not responsible for water quality control in the reservoir. This contrasts with its reference to an excellent level for bathing, insisting once again that it only analyses the parameters set out in the regulations, ignoring others that are reflected in the unified report, thus ignoring persistent and continuous contamination of the area since at least 2011, which, as a minimum precautionary measure, should require the application of broader and safer criteria when the alert is relevant in relation to the danger to humans in contact with bathing waters, and thus being aware of the risks posed by the bloom, as stated in the document, bathing is nevertheless authorised and it is the appellant's experts who have to warn of the bloom, a fact that we find worrying, given that these blooms are constant, extreme, public and well known. It also highlights that the CHMS report is awaited before measures are taken with regard to bathing, forgetting that the blooms are visible to the naked eye without the need for reports for the purposes of taking measures. Therefore, due to its relevance, it is reproduced in part:

"This representation ***does not deny the evidence that a cyanobacteria outbreak has occurred****, but it does deny the other information indicated in the letter. In particular, the document refers to two: the inaction of the Galician Regional Government in the face of this new situation, and the dangerous nature of this situation. In this regard, it should be clarified in advance that* ***the Galician Regional Government is not responsible for monitoring the quality of the reservoir's water,*** *which is the responsibility of the river basin authority. What is within the competence of the Xunta de Galicia, and in particular the Regional Ministry of Health, is the assessment of bathing water quality in accordance with the criteria established by Directive 76/160/EEC and its national transposition regulations (Royal Decree 1341/2007, of 11 October, on the management of bathing water quality). According to the aforementioned regulations, the microbiological parameters to be analysed are intestinal enterococci and Escherichia coli, and the sanitary classification of bathing waters is calculated on the basis of the results of the last three seasons and the bathing season in question, using the methodology indicated in the regulations. It should be noted that this methodology is used throughout the European Union, as this is a mandatory European regulation.* ***We can therefore see that, in view of the mandatory regulations, these are the parameters that the Administration must take into account to control bathing water quality.***

*1.- Having clarified this point, it should be noted that the 2025 bathing season began on 1 June. In accordance with the Health Monitoring Programme for Bathing Areas in Galicia 2022-2025, preliminary checks were carried out on the two bathing areas of the Las Conchas reservoir (Porto Quintela and A Rola) on 19/05/2025 and 21/05/2025, analysing, as required by the regulations, Escherichia coli and intestinal enterococci bacteria. The satisfactory results that determined the rating can be checked on the website of the Regional Ministry of Health WWW000 publica/resultados-controis-microbioloxicos-AB2.****- Notwithstanding the above, the Regional Ministry of Health is aware of the risks involved in bathing in waters where cyanobacterial blooms occur****, and to this end, even though it is not provided for in the regulations, it has approved a protocol, the content of which can be checked in document 11 provided with our response to the request. The analyses to monitor cyanobacteria must be carried out by the river basin authority, which reports periodically to the Regional Ministry so that it can set the corresponding alert level in bathing areas and, where appropriate, establish the measures to be taken by the corresponding local council.*

within their powers, such as prohibiting bathing and putting up signs. It should be noted, however, that the periodic analyses carried out by the Hydrographic Confederation are not instantaneous, as they must be sent to a laboratory with the certification required by the sectoral standard and a report must be produced.

Once you have the results and the report, you send it to the Regional Ministry, and from the time the samples are collected ***until we receive them, there is usually a period of at least 10 days*** *(which is why they are taken on a regular basis).3- In the case in question, on 2 June, the Regional Ministry received an official letter from the Confederation forwarding the report dated 29 May analysing the samples taken on 13 May. These samples showed cyanobacteria levels below the risk thresholds set by the WHO. (The results were <0.2 micrograms/L of cyanotoxins with a biovolume concentration below the threshold of 4 mm³). In accordance with the protocol for action in the event of cyanobacterial blooms in bathing waters within the monitoring programme, and with the data available sent by the river basin authority, the cyanobacterial risk level for the two bathing areas was level 1, and the level was therefore updated on the Regional Ministry of Health's website on that day.*

4- Notwithstanding the above, two days later (4 June), a new report dated 2 June was received on the analysis of samples taken on 21 May, warning that at certain points in the reservoir (intermediate points but not in the bathing areas) there had been a very significant increase in cyanobacteria, reaching high risk levels.5- Upon receipt of the communication, an inspection visit was carried out by public health inspectors from the Ourense Regional Health Department to the area of the two beaches in order to visually verify the state of the bathing water, confirming that there was a proliferation of cyanobacteria at both beaches.6.- Taking into account the public health inspection report and the biovolume data in the centre of the reservoir on 21/05/2025 (although not in the bathing areas themselves), it is considered necessary to move to alert level 3 on 04/06/2025, Therefore, the level on the website is updated on this date and the Territorial Health Department of Ourense informs the affected town councils of the alert level 3 situation in the bathing areas of the reservoir. From this moment on, the town councils, as the competent authorities, are obliged to signpost the areas with signs prohibiting bathing and water activities.7- As a result of the activation of level 3, the Regional Ministry of Health is also proceeding, in accordance with the existing protocol for the proliferation of cyanobacteria, to intensify cyanotoxin controls in order to monitor them in the two bathing areas that may be affected by the reservoir, as well as carrying out inspections to check that these bathing areas are correctly signposted.8.- Fortnightly inspections of the bathing areas by the Regional Ministry and weekly analyses by the Hydrographic Confederation are currently scheduled to monitor the cyanobacteria bloom.9.- According to information provided by the local councils, the Regional Ministry has been informed of acts of vandalism involving the destruction and removal of signs prohibiting bathing in the area. 10- The Regional Ministry of Health was not aware of, nor was it informed by the Provincial Council of Ourense or by any local council, of the holding of a canoeing event. Likewise, the General Secretariat for Sport was consulted and did not authorise any sporting events for those days at the As Conchas reservoir.

In conclusion, we highlight the following milestones: - The data reported to the Regional Government of Galicia on 2 June 2025 by the Confederation and the accompanying analysis reports determined a low level of cyanobacteria. - The Regional Government of Galicia did not receive the analysis and report on the cyanobacteria outbreak in the reservoir until 4 June.- As soon as the Regional Government of Galicia became aware of a higher level of cyanobacteria, it activated the corresponding alert level and informed the local councils of their duty to decree and signpost a ban on bathing in the bathing areas of the reservoir in accordance with the models established on the website of the Regional Ministry of Health. - The maximum alert level and the ban on bathing in the affected area remain in place.

In conclusion, based on the information provided in the report by the expert witness for the appellant, cyanobacterial blooms with toxin proliferation can cause serious illnesses and, in some cases, can pose a risk to human life.

ASSESSMENT OF THE ODOUR IMPACT AND AIR QUALITY IN AS CONCHAS

(OURENSE) in relation to the RIGHT TO A HOME.

We now turn to the analysis of the report on the assessment of odour impact and air quality in As Conchas (Ourense).

This is one of the controversial points, not only because of the persistent odour produced by the blooms, which directly affect As Conchas, but also because of the danger of the wind vane effect in the transmission of serious diseases. The expert's report also highlights a latent danger due to the detection of ethers involving bioaerosols emitted by the drainage pumping of the dam.

Thus, the report assessed as contradictory in the trial record refers to an extremely disturbing situation, as reflected in the following conclusions:

1) the episodes of offensive anaerobic odour coming from the As Conchas reservoir occur continuously at various times of the day and, therefore, the odour impact is frequent, intense and long-lasting, i.e. significant and disturbing.

2) The low-moderate representativeness of the chemical samples (39.8%-63.9%) during the control periods means that the maximum possible exposure has not been measured.

3) The majority presence of non-aromatic hydrocarbons (mainly heptadecane) from latent and continuous emissions of cyanobacteria present at the bottom of the reservoir and synthetic compounds such as ethers (mainly diphenyl ether) emitted by bioaerosols generated continuously by the drainage pumping of the As Conchas reservoir dam causes permanent and unwanted exposure of the residents of the As Conchas town centre and, consequently, a high risk to their health if emissions persist.

4) The monitoring period 22-24/08/2024 does not correspond to the maximum bacterial bloom, as the characteristic colouration of cyanobacteria was not observed on the surface of the reservoir, although there was high turbidity in the water column.

5) The odour/chemical pollution from the As Conchas Reservoir to which residents in the immediate vicinity are exposed significantly interferes with the normal course of their daily activities.

The explanation in the trial record is based on evidence accepted by this Court, as credible and coherent explanations were provided regarding the severity of the odours involved in living in the village. It should be noted that the odour problem has two sources: surface water and the dam outlet. it should simply be noted that the measurement of the chemical load comfort level in the first sample exceeds the required comfort criterion by five times, falling within the multifactorial exposure range that involves odours, irritation and possible discomfort, which leads to an assessment of the air as unacceptable, even in the assessment carried out, which does not reflect the conditions of maximum impact.

The opposition, without providing a contradictory field report and without proposing the ratification in court of the so-called unified report on environmental health, criticises the methodology, the validity date of the calibration and the lack of representativeness. However, after listening to the expert, we understand that the calibration assessment is irrelevant as it is within the range indicated to the expert by the administration. With regard to the methodology, we consider it to be correct given the explanation provided during the trial. It is more highly valued in terms of technical aspects and, if it had been rejected by the administration, another contradictory report of the same tenor would have been commissioned and submitted, as the one provided as documentation is a criticism but is not documented by field data, which, if not true, is easily refutable.

It is therefore clear in our opinion that the right of the appellants, residents of As Conchas, to a home free from degrading odours that make life difficult and subject them to constant exposure to bioaerosols due to the dam, which together with the cyanobacteria detected make it very difficult and/or dangerous to exercise their right to life, has been violated.

RESPONSIBLE PARTIES in response to the claim filed.

We understand from the above that there are two parties responsible for the situation that has arisen: on the one hand, ***the Regional Government of Galicia, through the relevant regional ministry****, which has infringed the provisions designed to safeguard groundwater quality (Article 27.14 of the EAG); additional regulations on environmental protection (Article 27.30 of the EAG), and on health (Article 33.1 of the EAG), which allowed an excessive increase in a region such as A Limia in the number of macro-farms (more than 300) without transferring the environmental risk to the company and/or companies benefiting from it.*

This situation is exacerbated by the ineffective management of waste, which ended up in uncontrolled locations without being chemically tested for the possible presence of antibiotics/chemicals derived from medicines, causing saturation of the environment that the soil was unable to absorb, thereby damaging the environment and leading to the emergence of resistant bacteria.

One fact that has already been reported is the shutdown of the waste treatment plant that was supposed to handle the excess. This led to photographs such as those taken by the Galician History Society, which show huge piles of manure accumulated on the ground.

This situation has been ongoing since 2011 and continues unabated to the present day, causing the groundwater to become severely depleted and contaminated by excessive nitrates. Simply check the nitrate levels in wells to see this for yourself.

This mass of groundwater ends up in the river and, due to the effects of the reservoir, settles, causing cyanobacterial blooms.

***Secondly, the CHMS is also responsible** for its obligation to control water quality, as one of the functions assigned to river basin organisations under section*
e) Article 24.2 of the revised text of the Water Law, on the understanding that inaction in the face of verifiable evidence of a deterioration in water quality since 2011 should have led to the relevant structural measures being taken to prevent the proliferation of authorisations for macro-farms, given its duty to report on environmental statements prior to their adoption in relation to water quality when there was evidence of gradual and chronic deterioration and a cause which, although not expressly recognised- in view of the data, was obvious given that the population is small and the livestock population is comparable to that of a large city in terms of the level of waste, a situation of which it was aware when it intervened in the authorisation processes in which the project already warns of the tonnes of waste and its subsequent use.

***With regard to the** local **councils**, this Chamber considers that they are not responsible for the risk situation arising from their involvement in the violation of fundamental rights, as they are only indirectly involved through the actions of other competent authorities responsible for monitoring water flow and protecting the environment.*

ENVIRONMENTAL RESTORATION ACTIONS (CORRECTIVE MEASURES).

Assessing the solutions proposed in light of the evidence and findings of the proceedings, and given the seriousness of the principles violated, it is considered necessary, within the scope of their powers, that the regional administrations and CHMS, without prejudice to other actions deemed appropriate, proceed to:

1.-Immediately adopt all necessary measures to halt the environmental degradation of the Limia river basin in order to restore the full enjoyment of the fundamental rights whose protection is being claimed, including, by way of example and without limitation:

- The adoption of a specific moratorium on the processing and granting of new licences and authorisations or any other authorising document for the establishment of pig, cattle or poultry farms or for the expansion of existing ones in the region of A Limia, at least until the situation of environmental degradation has been reversed.

-The promotion of any studies and programmes necessary to determine the extent of the reported environmental pollution and the establishment of programmes of measures to tackle it immediately, including epidemiological studies to observe the frequency and distribution of diseases associated with environmental pollution in the districts of Baixa Limia.

-Establishing effective mechanisms to prohibit the use of water from the As Conchas reservoir for bathing, fishing and/or recreational activities in the event that it is unsuitable due to contamination by microcystins and bacteria, installing visible signage, closing bathing areas and disseminating this information through official and local media.

- The establishment of a permanent monitoring system for drinking water quality, including the control of nitrate and nitrite parameters present in the distribution network.

- Carrying out periodic checks on the quality of water from wells used for human consumption in homes.

-Timely, clear and direct information to the population on any incident that may compromise drinking water quality, ensuring the right to information and health protection.

-The establishment of alternative supply mechanisms, such as the use of tanker trucks, in the event that the quality of drinking water is compromised, guaranteeing access to this basic resource.

-The establishment, where appropriate, of coordination mechanisms with the Regional Government of Galicia and the Miño-Sil Hydrographic Confederation (CHMS) to carry out water quality analyses and adopt corrective measures in the event of contamination, without delay, as evidenced by the latest episode of cyanobacterial bloom reported as a new fact.

COMPENSATION.

The appellant requests the following in this regard in the main claim:

"The defendant administrations are ordered to compensate each of my clients with a monthly amount of one thousand euros from the date of filing of the initial claim before the aforementioned Administrations and until the definitive cessation of the interference with the fundamental rights invoked."

In this particular case, the requests vary according to the situations of the appellants.

Firstly, with regard to this Court's position on chemicals that affect people in cases of risk to life due to carcinogenic substances, we understand that the fact that the human body has levels As regards the appellants, the inhabitants of the village of As Conchas, who live approximately 100 metres away, are in a serious situation in relation to their enjoyment of daily life, due to the presence of bad odours, the danger of aerosols, contamination of private wells to levels that render them unusable, loss of property value and a very serious potential health hazard.

*The Court considers that the interested parties**, Ms María Milagros, Mr Luis Miguel, Mr Pedro Enrique, Mr Ovidio, Ms Coral, and Mr. Alejandro** has suffered undeniable moral damage that has not ceased; in addition to the nuisance caused by gas emissions (bioaerosol) and odours from the reservoir, there is also the health risk arising from the consumption and/or use of water due to the high concentration of nitrates and the presence of cyanobacteria, or the enjoyment of the water from the reservoir; This situation dates back to 2011, and we understand that it causes distress and anxiety to see that the situation has been prolonged over time (almost 24 years). It is valued at 30,000 euros each, with a quantification of 1,000 euros/month until the full amount is paid, as requested.*

*With regard to **Ms Amalia,** as she resides in A Coruña, the moral damage caused by the constant worry about the situation of her relatives in view of the serious risk faced by the family (parents and brother) is assessed at 6,000 euros, with a quantification of 1,000 euros per month until the full amount is paid, as requested.*

The claim should be upheld in part and dismissed in relation to the defendant local councils.

FOURTH. - *Costs.*

In accordance with the provisions of Article 139.1 of Jurisdictional Law 29/1998, given the partial acceptance of the claim, no express imposition of procedural costs is made. In the event of dismissal, no special imposition is made either, given the complexity of the matter assessed by this Chamber.

RULING

For all the above reasons, on behalf of the King and by the authority conferred upon it by the Constitution, this Chamber has decided **FIRST.** -That we must uphold and partially uphold the claim filed by Ms. María Milagros, Mr. Luis Miguel, Mr. Pedro Enrique, Mr. Ovidio, Ms. Coral, Ms. Amalia and Mr. Alejandro, represented by the solicitor
Mr. IAGO MARTÍNEZ NÚÑEZ and defended by the lawyer Ms. ANA

GEORGINA GUERRERO RON, Member NUM001, of the ASOCIACIÓN DE VECIÑOS AS CONCHAS, represented by the solicitor Mr. IAGO MARTÍNEZ NÚÑEZ and defended by the lawyer Mr. JAIME DORESTE HERNÁNDEZ, Member NUM002, and the FEDERACIÓN DE

CONSUMERS AND USERS CECU, represented by the attorney Mr. IAGO MARTÍNEZ NÚÑEZ and acting under the legal direction of Ms. MARIA VICTORIA HORMIGOS FABEIRO against Confederación Hidrográfica del Miño Sil represented and assisted by the State Attorney, and the Regional Government of Galicia, represented and assisted by the Regional Government of Galicia's lawyer, with the intervention of the Public Prosecutor's Office. Declaring that:

1. The violation of fundamental rights is declared, namely the right to life and, in relation to this, the right to privacy and the inviolability of the home and property (Article 33.1 of the Spanish Constitution), linked to the enjoyment of water, all of which are related to the right to enjoy a healthy environment that is adequate for people's needs, as set out in Article 45 of the Spanish Constitution.

2. This violation is caused by the inaction of the defendant public administrations (Xunta and CHMS), which, despite being aware of the situation and legally obliged to do so, have been unable to remedy it.

3. The Regional Government of Galicia and the Miño-Sil Hydrographic Confederation are ordered to immediately adopt all necessary measures to put an end to the odours and environmental degradation of the As Conchas reservoir and its surroundings, and to restore the full enjoyment of the fundamental rights claimed in the present proceedings.

4. The Regional Government of Galicia and the Miño-Sil Hydrographic Confederation are ordered-Sil to immediately adopt all necessary measures to guarantee the supply of clean, safe drinking water free of microorganisms and chemical substances that constitute a threat to human health in order to restore the full enjoyment of their human right to water as set out in the section entitled *"MEASURES FOR THE RESTORATION OF THE ENVIRONMENT (CORRECTIVE MEASURES)" in the legal grounds.*

5. The defendant administrations are ordered to compensate *Ms María Milagros, Mr Luis Miguel, Mr Pedro Enrique, Mr Ovidio, Ms Coral, Ms Amalia and Mr* [redacted] a monthly amount of one thousand euros from the date of filing of the initial claim before the aforementioned Administrations and up to a maximum of 30,000 euros each, which in the case of *Ms Amalia shall be up to a maximum of 6,000 euros*.

Dismissing the claim against the Town Council of Bande, Os Blancos, Trasmiras Lobeiras and Muiños.

SECOND. – No express imposition of procedural costs is made. Notify this

decision to the parties and include it in the legislative collection.

An appeal may be lodged against this ruling either before this Chamber or before the Administrative Chamber of the Supreme Court, which, in accordance with the provisions of Article 86 of the LRCJA, must be prepared in writing and meet the conditions set out in Article 89.2 of the same Law, and submitted to the Chamber within 30 days of notification.

In order for the appeal to be admitted for processing, the deposit referred to in the fifteenth additional provision of Organic Law 1/2009 of 3 November on the judiciary must be made to the deposit and consignment account of this Court.

Once final, a copy of this judgment shall be sent to the defendant administration together with the administrative file.

Thus, by this judgment, we pronounce, order and sign.

The dissemination of the text of this resolution to parties not involved in the proceedings in which it was issued may only be carried out after the personal data contained therein has been removed and with full respect for the right to privacy, the rights of persons requiring special protection, and the guarantee of anonymity of victims or injured parties, where applicable.

The personal data included in this resolution may not be transferred or communicated for purposes contrary to the law.