

General Ombudsman of the Union

General Coordination of Access to Information Resources



DECISION

Reference:	08850.002719/2016-51
Subject:	Appeal against decision denying the request for access to information.
Access Restriction:	No restriction.
Resume:	Object of the appeal: Citizen seeks information regarding the sighting of an unidentified flying object – UFO, in indigenous villages near Feijó-AC. Technical opinion: The visit of the indigenous peoples reported by the citizen was not confirmed by FUNAI, which declares that it is not aware of the document requested in the initial request, which is why it is not aware of the appeal.
Appealed body or entity:	FUNAI – National Indigenous Foundation
Recurrent:	E.B.Jr
Keywords:	Not known

Mister General Ombudsman of the Union,

1. This opinion deals with a request for access to information based on Law No. 12,527/2011, according to the descriptive summary presented below:

RELATÓRIO		
ATO	DATA	TEOR
Request	08/29/2016	<p><i>"A commission of the Ashaninka, with an indigenous spokesperson named Ninawá Hunikuî, were [SIC] in Brasília-DF to deliver to FUNAI a request asking for support to uncover a mystery in indigenous villages [SIC] close to Feijó-AC. Strange lights are reported to have appeared there and in February 2016, an indigenous Ika Ashaninka was attacked and received an electrical discharge from the unidentified flying object (after firing his rifle 18 times at the UFO)." See link:</i></p> <p>http://contilnetnoticias.com.br/2016/02/16/professor-diz-que-suposto-ovni-esta-ateorizando-comunidades-indigenas-no-acre/#</p> <p><i>Thus, we request the following:</i></p> <p>1) a color copy (in PDF format) of the document and appropriate attachments delivered to FUNAI by the Ashaninka, about the case in the villages near Feijó-AC, requesting support. And, a copy of the answer given to this petition (if it was answered).</p> <p>2) a document with a list (date, tribe and brief description [SIC] of the fact) of other similar occurrences known to this FUNAI and occurred in other indigenous tribes under its jurisdiction".</p>
First answer	09/20/2016	<p><i>In response to the request for Information, Technical Information No. 08/2016/GAB/PRES/FUNAI-MJ, issued by the Deputy Head of Cabinet of the Presidency of the foundation, is attached.</i></p> <p><i>In response, the foundation informs that there is no record of the documents as described in the request, highlighting the need for the citizen to specify the desired document (letter, official letter or other), informing its protocol or number, "as a necessary measure for its service".</i></p> <p><i>It also suggests that the applicant seek the requested information "with the Superintendence of the Federal Police in Acre, responsible for the registration of</i></p>

		oimilar occurrences in that region”.
Superior Authority Appeal	09/20/2016	<i>“I inform you that the information was passed on by Ms. Rose (CIMI coordinator in Rio Branco-AC), as well as confirmed by the indigenous Ninawá Hunikui and journalist Jorge Natal”.</i> <i>She then repeats the initial request, but decides to give up part of her request: "I ask that you only meet item 1, and if you find difficulty in item 2, you can disregard it".</i>
Answer to Superior Authority Appeal	09/28/2016	<i>Attaches Technical Information No. 09/2016 / GAB / PRES / FUNAI-MJ, of 09/27/2016.</i> <i>In the document, the foundation informs that, according to the Regional Coordination of Juruá / AC, since March / 2016, "periodical meetings are held with the leaders of TI Kampa and Isolados do Envira Feijó / AC, with a view to accompanying with the indigenous people a solution for the question ".</i> <i>However, it clarifies that that Regional Coordination only accompanies it as "information and actions from other public bodies, such as the Federal Police and the Military Police", which is why it informs that it does not have any material exclusively by FUNAI, so it recommends "that the claim be taken to the Superintendence of the Federal Police in Acre".</i>
Maximum Authority Appeal	09/28/2016	When resubmitting your appeal under the same terms as the previous appeal, add: "I received from you Technical Information No. 09/2016/GAB/PRES/FUNAI-MJ, of 09/27/2016, where in paragraph 2 it is written: 'As reported by the Regional Coordination of Juruá/AC, since March of this year they are periodic meetings were held with the leaders of TI Kampa and Isolados do Envira Feijó/AC, with a view to following up, together with the indigenous people, a solution to the issue!... That is, there are minutes of these meetings and documentary material on the case/subject. Allied to the fact that the information was passed on by Ms. Rose (CIMI coordinator in Rio Branco-AC), as well as confirmed by the indigenous Ninawá Hunikui and the journalist Jorge Natal”. It also reiterates giving up item 2 of its initial order.
Answer to Maximum Authority Appeal	10/06/2016	<i>In response to the appeal, it sends Official Letter No. 920/2016/PRES/FUNAI/MJ, signed by the Deputy President of FUNAI.</i> <i>In the document, the foundation informs that the Regional Coordination of Juruá monitors the meetings when urged by the Federal Public Ministry/ Attorney of the Republic, pursuant to Decree 7778/2012, "and it is not appropriate to adopt any measure regarding the matter, as well as if express on procedures adopted by other bodies of the Public Administration”.</i>
Appeal to CGU	10/06/2016	From the information provided, the citizen understands that there are at least “minutes of these meetings and documentary material on the case/subject”. Request assistance from CGU with FUNAI to obtain the documents, according to the initial request.

This is the report.

Analysis

2. The compliance with art. 21 of Decree No. 7.724/2012 regarding the indication to the citizen of the possibility of appeals and the deadlines for them to be filed.
3. With regard to the admissibility requirements, it should be noted that the appeal was presented to CGU in a timely manner and received in line with the provisions of the caput and §1 of art. 16 of Law No. 12,527/2011, as well as with respect to the period of 10 (ten) days provided for in art. 23 of Decree No. 7724/2012, in these terms:

LLaw No. 12,527/2011

Art. 16. Denied access to information by bodies or entities of the Federal Executive Branch, o applicant may appeal to the Comptroller General of the Union, which will deliberate within 5 (five) days if:

(...)

§ 1 The appeal provided for in this article may only be addressed to the Comptroller General of the Union after being submitted to the appreciation of at least one authority hierarchically superior to the one that issued the contested decision, which will deliberate within a period of 5 (five) days.

Decree No. 7,724/2012

Art. 23. The appeal referred to in the sole paragraph of art. 21 or the claim referred to in art. 22, the applicant may file an appeal within ten days, counting from the knowledge of the decision, to the Comptroller General of the Union, which must manifest itself within five days, counting from the receipt of the appeal.

4. Once the analysis began, it is observed that the request seeks information regarding the sighting of an unidentified flying object – UFO, in indigenous villages close to Feijó-AC.
5. According to the applicant, a delegation of Ashaninka Indians would have come to Brasília to deliver to FUNAI a request for support so that the alleged sighting could be investigated. The citizen does not inform the date on which this delegation would have come to Brasília, but wishes, in their initial request, access to the document that the indigenous people would have given to FUNAI during the visit.
6. During the resources phase, in Technical Information No. 09/2016/GAB/PRES/FUNAI-MJ, of 09/27/2016, the foundation informs that according to the Regional Coordination of Juruá/AC, since March/2016, “periodic meetings are held with the leaders of TI Kampa and Isolados do Envira Feijó/AC, with a view to following up with the indigenous people a solution to the issue”.
7. After the dialogue began, we questioned FUNAI whether it had received the Ashaninka Indians, as stated by the citizen. The response received states that there are no records of meetings between the President of the Foundation or its boards with representatives of the indigenous peoples.

8. FUNAI also states that there is no record in the foundation's protocol system on any document related to the subject, but clarifies that the location of any document may have been impaired because no identification was indicated as to its type or number.
9. In fact, since it would not have been sought by the indigenous people at its headquarters in the Federal District, as the citizen reports, FUNAI claims that it only became aware of the matter after the request for access under analysis:

“When we received the request, via SIC by the plaintiff who referred to the holding of a meeting of Ashaninka leaders with the President of Funai and the delivery of documents to Funai about the alleged UFO in indigenous villages near Feijó/AC, as mentioned above, we did not find any registration in the document protocol system in the period informed. Therefore, we sought information from the Regional Coordination of Juruá/AC about the fact mentioned by the applicant. According to CR-Juruá, the complaints made by the indigenous community about this phenomenon are included in the monitoring list of this Coordination, which, in partnership with other institutions, has been monitoring the situation with the indigenous peoples”.

10. In reference to the second instance appeal, FUNAI also emphasizes that the works are unfinished, in the monitoring and data collection phase, and that they aim at decision-making, and that documents or minutes produced at these meetings cannot be demanded, as provided for in art. . 20 of Decree 7724/2012.
11. In this way, no documents or attachments "delivered to FUNAI by the Ashaninka, about the case in the villages close to Feijó-AC" were found, requesting support from the entity, which, according to FUNAI's clarification, does not necessarily imply that they do not exist, initially only in the impossibility of its location given the request was not specific enough. Still, the foundation claims it has no records or witnesses to confirm that the visit took place.

Conclusion

12. The visit of the indigenous people reported by the citizen was not confirmed by FUNAI, which declares not be aware of the document requested in the initial request. Faced with the impossibility of locating or confirming the existence of the requested information, the opinion is that the resource is not known.

DANTON LOPES

Federal auditor of Finance and Control

D E C I S I O N

In the exercise of the powers conferred on me by Ordinance No. 1.567 of the Comptroller General of the Union, of August 22, 2013, I adopt, as a basis for this act, the opinion above, to decide not to acknowledge the appeal filed, pursuant to art. 23 of Decree 7724/2012, within the scope of the request for information no. 08850.002719/2016-51, addressed to FUNAI – National Indian Foundation.

GILBERTO WALLER JUNIOR

General Ombudsman of the Union



PRESIDENCY OF THE REPUBLIC
Brazilian Office of the Comptroller General
Signature Sheet

Document: DECISION nº 3983 de 21/10/2016

Reference: PROCESS nº 08850.002719/2016-51

Subject: Appeal against decision denying the request for access to information

Signatories:

GILBERTO WALLER JUNIOR
Ombudsman

Digitally signed on 10/21/2016

List of Dispatches:

approve.

GILBERTO WALLER JUNIOR
Ombudsman

Digitally signed on 10/21/2016
