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ECONOMIC COMMISSION FOR EUROPE

Meeting of the Parties to the
Convention on Access to Information,
Public Participation in Decision-making and
Access to Justice in Environmental Matters

(Second meeting, Almaty, Kazakhstan, 25 - 27 May 2005)
(Item 6 (a) of the provisional agenda)

IMPLEMENTATION REPORT

Romania^{*/}

Based on the reporting format annexed to decision I/8

1. Provide brief information on the process by which this report has been prepared, including information on which types of public authorities were consulted or contributed to its preparation, on how the public was consulted and how the outcome of the public consultation was taken into account and on the material, which was used as a basis for preparing the report.

The Implementation Report was completed by the Ministry of Environment and Water Management (MEWM) and the National Environment Protection Agency (NEPA).

The material used in the Report includes Romanian legislation implementing the Convention and information provided by the questionnaire on the practical implementation of the Convention

^{*/} This document was submitted after the second meeting of the Parties in accordance with Decision II/10 of the Meeting of the Parties (ECE/MP.PP/2005/2/Add.14) that called upon all Parties at the time of the deadline for submission of the implementation reports and that failed to submit such reports to the secretariat to do so by 15 September 2005. The document will be considered at the sixth meeting of the Working Group of the Parties to the Aarhus Convention (5-7 April 2006).

which was sent by the Ministry of Environment and Water Management and by the National Environment Protection Agency to those entities identified as most representative, including several NGOs, and 42 authorities (Regional Environmental Protection Agencies (REPA's), Local Environmental Protection Agencies (LEPA's)).

The implementation report was circulated to the following central authorities: Ministry of Agriculture, Forests and Rural Development, Ministry of Economy and Trade, Ministry of Transports, Constructions and Tourism, Ministry of Health, Ministry of Administration and Interior, Ministry of Communications and Information Technology, Ministry of Culture and Religions, Ministry of Justice.

All answers received were integrated within the present report (the comments from Ministry of Transportation, Constructions and Tourism and the Ministry of Communications and Information Technology).

The report was also sent to the following non-governmental organisations: TERRA Mileniul III, Environmental Expert Association, PRO BICICLO URBO, Prietenii Pamantului Galati, Strawberry Net, Club Ecologic UNESCO Pro Natura, Centrul de Consultanta Ecologica Galati, Asociatia Romana a Iubitorilor Naturii (ARIN), GEF SGP National Coordinator UNDP Romania.

All comments received from NGOs were integrated into the report (TERRA Mileniul III, EEA, Club Ecologic UNESCO Pro Natura).

The National Group for Public Participation (GNPP) which consists of several representative environmental NGOs, has played a leading role in the elaboration of a manual for public participation, has organized courses and procedures for bringing their contribution to the development of democratic practices in the adoption of the decisions.

The above mentioned NGOs have the following contact data:

- a) Environmental Experts Association, <http://eea.ngo.ro>; eea_ngo@yahoo.com
- b) Ecologic Club UNESCO ProNatura, www.pronatura.ro; emil@pronatura.ro
- c) TERRA Mileniul III - ionut@bankwatch.org; ; <http://terraiii.ngo.ro>
- d) PRO BICICLO URBO – probiciclo@rdslink.ro
- e) Prietenii Pamantului Galati - earthfriends@rdslink.ro
- f) Strawberry Net - misi@sbnet.ro
- g) Clubul Ecologic UNESCO Pro Natura - emil@pronatura.ro
- h) Centrul de Consultanta Ecologica Galati – eco@cce.ro; petrutamoisi@cceg.ro
- i) Asociatia Romana a Iubitorilor Naturii (ARIN) – arininfo@gmail.com
- j) GEF SGP National Coordinator UNDP Romania - mihaela.dupleac@undp.org

2. Report any particular circumstances that are relevant for understanding the report, e.g. whether there is a federal and/or decentralized decision-making structure, whether the provisions of the Convention have a direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

Romania is a national, sovereign, unitary, indivisible and independent state. In Romania the public administration within administrative - territorial units is based on decentralized local autonomy. Romania signed the Convention on 25 June 1998 and ratified it by *Law no. 86/2000* on 11 July 2000.

According to article 11, paragraph 2 of the Romanian Constitution, the ratified treaties are part of national law and Romania has to willingly accomplish all duties and responsibilities resulting from the treaties to which is a Party.

According to article 20 of the Romanian Constitution, the Constitutional provisions on the Romanian citizens' rights and freedoms are applied in compliance with the Universal Declaration on Human Rights and with all the other treaties to which Romania is a Party. The ratified treaties on fundamental human rights prevail when there is a disagreement between these treaties and the national legislation, except in cases when the Romanian Constitution and laws contain more favourable provisions.

Article 31, paragraph 1 and 2 of the Romanian Constitution provide for the right to access to public interest information. The authorities have to ensure the correct information of the citizens on public matters.

The *Law on Environmental Protection no. 137/1995*, republished, amended by Governmental Emergency Ordinance (GEO) 91/2002, approved by *Law 294 / 2003* provides for principles, such as access to environmental information, public participation to environmental decision-making process and access to justice in order to prevent or remedy a damage.

Based on the provisions of the same law, the local and central public authorities ensure the public information and participation to the decision-making process, in compliance with the Aarhus Convention. Access to justice is also ensured by *Law no.554/2004* on administrative contentious.

The *Law 544/2001* on free access to public information, the Methodological Norms on 7 February 2002 on applying the *Law 544 / 2001* and Governmental Decision (GD) 878/2005 on public access to environmental information have an important role in establishing the institutional framework for the application of the Convention into the national law. Each local and central public authority has set up an office in charge of providing and disseminating environmental information.

ARTICLE 3

3. List legislative, regulatory and other measures that implement the general provisions in paragraphs 2, 3, 4, 7 and 8 of article 3.

(a) *Law 544/2001* on free access to public information, GD 123/2002 for applying *Law 544 / 2001*, GD 878 / 2005 on public access to environmental information, and Ministerial Order (MO) 1182/2002 for the approval of the managing and providing methodology on environmental information provide the framework for accomplishing the responsibilities mentioned above. The public authorities have to assist the public in seeking access to environmental information by establishing lists and registers with environmental information.

The competent environmental authorities facilitate public participation in the decision making process during the Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) procedure e.g. by providing venues for public debates, documentation and general information related to the procedure and to the subjects of the public debate, organizing workshops together with NGOs on implementation of environmental legislation.

According to GD 321/2005, the local public administration authorities are obliged to ensure public information and participation in matters concerning environmental noise related to road infrastructure, railways and airport projects.

Based on the *Law no. 622*, the ratification on 7 November 2001 of the final act of negotiation between the Romanian Government and the European Union for endorsement of the agreement on 9 October 2000 concerning the participation of Romania to the European Environment Agency and to the European Environment Information and Observation Network (EIONET) adopted at Brussels, Romania participates with full rights to the European Environment Agency and to the European Information and Observation Network (EIONET) according to the regulation of the Council no.1210/90 modified as a regards of the Council regulation no. 933/99. According to article 10 of the above mentioned agreement, the environmental data sent by the Agency can be published and are publicly available with the specification that the confidential information has the same security degree in Romania as within the European Community.

(b) The *Law on Environmental Protection* (article 73) guarantees that the central public authority for education and research ensures the adaptation of educational plans and programs at all levels, for assimilating the notions and principles of environmental protection.

The process of public information and education consists of:

- publication of guidelines;
- ecological education;
- collaboration between Local Environmental Protection Agencies, NGOs and the local public administration in developing environmental projects;
- establishing in each LEPA, REPA an information bureau;
- publishing periodical reports on the state of the environment (EPA);
- environmental/ecological curricula in elementary and high- schools, further developed in certain universities established in the field of environmental protection.

According to the GD 1085 on applying some provisions of the *Law 161/2003* concerning some measures for the implementation of the National Electronic System, there is indicated the list of public administration authorities among whom also the Ministry of Environment and Waters Management which have the duty to use the electronic procedure for providing services and public information. There is also indicated the list of public services provided by electronic procedure. Related to the environment protection the following forms are available:

- Statement on own liability concerning the compliance of the legislation for environment protection
- Statement on own liability concerning the hygienic and medical orderly conditions.

Based on *Law no.52/2003* on the transparency of the decision-making process within public administration, the public has the right to express comments and opinions on the drafts of normative acts and consequently, it is better informed and more aware on laws and regulations.

(c) Romania's Constitution guarantees the following:

- Article 29, freedom of conscience
- Article 30, freedom of expression
- Article 31, the right on information
- Article 40, the right of association

The *Law on Environmental Protection* no. 137/1995:

- Article 5, letter b) guarantees the right to take part in an environmental organisation;
- Article 4, letter h) guarantees the right to involve NGO's in the process of decisions elaborating and applying;
- Article 65, letter p) assures that NGO's are to be consulted on a permanent basis by the environmental central public authority;
- Article 87 assures that NGO's have access to a procedure before a court of law.

The ordinance no.26/2000 on associations and foundations as amended by ordinance no.37/2003 establishes the national legal framework for recognition of NGOs.

(d) The Romanian Governmental delegations participating in intergovernmental meetings respect the Aarhus Convention principles at international level.

(e) Article 30 of Romanian Constitution guarantees that the freedom of expression of opinions by means of communication and censor is banned. As a consequence, a person exercising the rights provided by the Aarhus Convention cannot be penalized, persecuted or harassed.

Romania's Constitution guarantees in article 31 that "a person's right of access to any information of public interest shall not be restricted" (par. 1), and "the public authorities, according to their competence shall be bound to provide correct information to the citizens in public affairs and matters of personal interest" (para. 2)

4. Describe any obstacles encountered in the implementation of any of the paragraphs of article 3 listed above.

Obstacles:

- lack of financial resources;
- lack of training of persons within the public authorities;
- lack of sufficient personnel in charge with environmental information;
- the development stage of the computer telecommunication and/or electronic technology used in providing environmental information.

5. Provide further information on the practical application of the general provisions of the Convention.

The practical application of the general provisions is ensured by the implementation legislation mentioned above.

Romania is the signatory of the Political Declaration on Electronic Governance implementation approved by the ministries of the member and candidate states on 30 November 2001 at Brussels. Following this declaration, the signatory countries approved the realization of a European electronic portal which can ensure the access of every European citizen to basic public services. The Romanian National Electronic System, available on Internet at the address www.e-guvernare.ro, was developed in order to facilitate the interaction of the citizens and business environment to the public administration by offering information and online services.

Electronic governance is defined within the GD no. 1440/2002 concerning the approval of the national strategy on the promotion of new economy and implementation of the information society. "e-Government" represents the electronic offer of public services for citizens and the business environment together with the availability of public information on the Internet around the clock. The Internet sites of ministries, including the site of the Ministry of Environment and Waters Management, facilitates the direct access to public information or to the address of employees of different departments.

According to the GD no.1007/2001, as regards to the interaction between the citizen and the local public administration, the "e-Administration" strategy concerning the information of the public administration was approved as part of the component related to the information exchange between citizens and government.

In 2002, the National Institute for Research and Development in Informatics (ICI) coordinated the National Research and Development Program in Informatics – INFOSOC. Among the 78 projects proposed by the universities (e-government, e-culture, e-business), there were also projects related to the management of the environment.

6. Give relevant website addresses, if available:

Ministry of Environment and Water Management: www.mappm.ro; www.mmediu.ro;

National Agency for Environmental Protection: www.anpm.ro

Romanian Government: www.gov.ro

ARTICLE 4

7. List legislative, regulatory and other measures that implement the provisions on access to environmental information in article 4.

Art. 31 in the Constitution of Romania sets the guiding lines for the access to information in the Romanian legal system, as following:

- A person's right of access to any information of public interest shall not be restricted.

- The public authorities, according to their competence, shall be bound to provide correct information to the citizens in public affairs and matters of personal interest.
- The right to information shall not be prejudicial to the measures of protection of young people or national security.
- Public and private media shall be bound to provide correct information to the public.
- Public radio and television services shall be autonomous. They must guarantee any important social and political group the exercise of the right to broadcasting time. The organization of these services and the parliamentary control over their activity shall be regulated by an organic law”.

The constitutional provisions are enforced by the executive regulations in *Law 544/2001* on free access to public information and GD 123/2002 approving the methodological norms of applying the *Law 544/2001*.

According to the *Environmental Protection Law no 137/1995*, republished, as amended by EGO 91/2002, approved by *Law 294/2003*, the “Romanian authorities recognize public right to a healthy environment and guarantee on this purpose public access to information on environment” (art. 5).

Law no. 86/2000 ratifies the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters. By adopting this Law, the Aarhus Convention became *part of the national legislation*. Thus, *all the articles of this Convention are compulsory in the Romanian legislation*.

The EU Directive 2003/4/EC on public access to environmental information and repealing Directive 90/313/EEC, has been transposed by GD no. 878/2005 on the public access to environmental information, and repealed the GD 1115/2002 on free access to environmental information. This new GD “ensures the public right of access to environmental information held by or for public authorities and sets out the basis and the ways to exert this right” (art. 1, para. (1)).

MO no.1182/2002 sets out the methodology for the active and passive flow of environmental information for environmental authorities.

Law 544/2001 on free access to public information sets out the definition for “public authority” (art. 2, letter a)). Article 2 of GD 878/2005 provides definitions for “environmental information”, “public authorities”, “information held by a public authority”, “information held for a public authority”, “public” and “applicant”.

As mentioned above, the ratified Aarhus Convention is part of national Law and as a consequence, article 3, paragraph 9, applies accordingly.

In subsequent legislation, the non-discrimination requirement was included in the definition of “the applicant” in Art. 2 of the GD 878/2005.

- (a) (i) Article 3, paragraph (3) of the new GD provides that “The public authorities are required to make available the environmental information held by or for them to any applicant, at his request and without him having to state an interest”.

- (ii) - (iii) According to article 6 GD 878/2005 “When an applicant requests a public authority to make available the environmental information in a specific form or format, including copies, the public authority shall make it so available unless:
- it is already publicly available, according to articles 20 – 25, in another form or format which is easily accessible by applicants, or
 - it is reasonable for the public authority to make it available in another form or format, in which case reasons shall be given for making it available in that form or format”. Article 6, paragraph (2) stipulates that “public authorities have to maintain the environmental information held by or for them in forms or formats that are readily reproducible and accessible by computer telecommunications or by other electronic means”.

(b) Article 4 of the new GD 878/2005 provides that “the environmental information is made available to the applicant as soon as possible and before the one month period after the receipt of request”. The same article provides that the authority has to respond to a request for information within a month after the registration of the request, except (for the cases) when the amount or complexity of the requested information requires a two months period.

(c) (i) There are legal provisions for exemptions in the Romanian legislation.

The legal framework for the exemptions from providing information of public interest is set by the *Law 544/2001* and the GD 123/2002, completed by the provisions in the GD 878/2005.

- (ii) In order to give effect to the public interest test, the Romanian legislation stipulates that the reasons for refusal of a request must be interpreted in a restrictive way, taking into account in each case the public interest served by disclosure (art.12, para. 2 of the new GD). The public interest served by disclosure must be weighed against the interest served by the refusal (art.12, para. 3).

(d) In the new GD, article 11(1), letter (a) requires that if the public authority to which the request was addressed is aware that the information is held by another public authority, it transfers the request to that other authority, as soon as possible, but not later than 15 days, and inform the applicant accordingly.

Article 7 of the GD 878/2005 provides for all public authorities to prepare public registers containing the types of environmental information held by them. The **list of public authorities**, the type of environmental information and the references of public relation departments to which the information may be requested are compiled by NEPA.

The list of public environmental information is available on the NEPA website.

(e) Article 15(1) of the GD 878/2005 states: “The environmental information held by or for public authorities, which has been requested by an applicant, shall be made available in part where it is possible to separate out any information falling within the scope of article 11(1), letters d) and e) or article 12(1), from the rest of the information requested”.

(f) According to the provisions of article 15(2) and (3) of the new GD 878/2005, a motivated refusal to make available the requested information, entirely or in part, shall be notified to the applicant within a month after the registration of the request, except for the cases when the complexity of information requires a longer period - two months.

(g) *Law 544/2001* on free access to public information and the GD 878/2005 contain provisions for the charging requirements in the Convention (art. 4 (8)).

Article 30 of the GD 878/2005 contains provisions on charging for the copying services.

8. Describe any obstacles encountered in the implementation of any of the paragraphs of article 4.

The difficulties encountered in the implementation of article 4 arise from the lack of trained staff in certain administrative units and from poor public awareness and involvement in environmental matters.

9. Provide further information on the practical application of the provisions on access to information, e.g. are there any statistics available on the number of requests made, the number of refusals and their reasons?

Every LEPA and REPA has its own statistics on the number of requests received, the number of refusals and the reasons.

10. Give relevant web site addresses, if available:

Some websites of the Environmental Protection Agencies (REPAs) in Romania:
www.arpmbc.ro; www.arpmgl.ro; www.armpitesti.ro; www.mediucraiova.ro; www.ipmtm.ro;
www.arpmcluj.ro; www.ipmsb.ro; www.arpmc.ro, www.e-government.ro

ARTICLE 5

11. List legislative, regulatory and other measures that implement the provisions on the collection and dissemination of environmental information in article 5.

The relevant definitions are provided by article 2 of the GD 878/2005 on public access to environmental information.

As mentioned above, the ratified Aarhus Convention is part of national Law and as a consequence, article 3, paragraph 9, applies accordingly.

In subsequent legislation, the non-discrimination requirement was included in the definition of “the applicant” in art. 2 of the GD 878/2005.

- (a) (i) Article 28(1) of the new GD 878/2005 provides for the public authorities to ensure, “as far as is within their power, that any environmental information that is compiled by them or on their behalf is up to date, accurate and comparable”.
- (ii) Section 2 of the MO 1182/2002 – *Active Flow of Environmental Information* – sets out the requirements for ensuring an effective flow of information at every level of environmental authority. Regarding this issue, the environmental authorities have to perform the following tasks:

- To compile, in an accurate and timely manner, the environmental information consisting of reports, registers etc., to submit this information in electronic form to the central public authority for environmental protection and to make it available on the Internet;
- To submit the forms to fill in the information to other public authorities holding environmental information and to gather and compile the responses;

To provide, within the environmental administration and to other units, the regulations and procedures regarding the information management.

(iii) Article 24 of the GD 878/2005 contains provisions for emergency situations:

“In the event of an imminent threat to human health or the environment, whether caused by human activities or due to natural causes, the public authorities shall disseminate the information held by or for them which could enable the public likely to be affected to undertake measures to prevent or mitigate harm arising from the threat, immediately and without delay.”

(b) The *Law 544/2001* provides for the public authorities to establish public relations departments.

According to article 7(1) of the GD 878/2005 , “in order to facilitate the access of any person to environmental information, public authorities are required to support the public in seeking access to information and to ensure public access to the lists with public authorities holding environmental information.” The same GD contains provisions regarding practical arrangements to ensure that the right of access to environmental information can be effectively exercised.

These arrangements include:

- the designation of information officers,
- the establishment of facilities for the study of the information required and
- registers or lists of the environmental information held by public authorities or establishing information points with clear information on where such information can be found

According to article 8 of the GD 878/2005 , the public authorities have to inform the public about the rights provided for by this normative act, have to guide and support the public, as follows:

- displaying on their web sites the public rights;
- availability of leaflets on public rights.

(c) MO 1182/2002 approving the methodology for the management and dissemination of information held by the public authorities for environmental protection sets out the terms for the environmental information to be made available to the public through computer telecommunication technologies and/or electronic communication technologies (art. 1(2)). The *Law 544/2001* and the GD 123/2002 contain related provisions.

Article 20(2) in the GD 878/2005 provides for the environmental information to become “available in electronic databases, easily accessible to the public through public communication networks”. The databases will contain the environmental information held by or for the public

authorities, on one hand, and the environmental information actively disseminated, on the other hand. These databases will become available in 2006.

The NEPA together with the MEWM has prepared an electronic database for the permitting procedure of public and private projects likely to have significant impact on the environment (EIA Database), based on the provisions of MOs 860/2002, 863/2002 and 864/2002. This database is available on the NEPA website.

NEPA together with MEWM shall prepare another electronic database, including plans and programmes likely to have significant effects on the environment, which will be submitted for approval at central and regional level (SEA database). After completion, this database will be available on the NEPA website.

(d) According to article 23 of the GD 878/2005, the public authorities for environmental protection have the obligation to publish annually national, regional or local reports on the state of the environment.

Since 1993, the MEWM has been preparing annual reports on the state of the environment. The latest National Report on the State of the Environment has been completed in 2004 by NEPA and submitted to the European Environmental Agency in February 2005.

(e) According to article 22 of the new GD 878/2005, "The information made available and actively disseminated shall be updated and shall include at least:

- text of international treaties, conventions or agreements to which Romania is Party and of local, regional, national or Community legislation on the environment or relating to it;
- policies, plans and programmes relating to the environment;
- progress reports on the implementation of the items referred to in a) and b), when prepared or held in electronic form by public authorities;
- reports on the state of the environment;
- data or summaries of data derived from the monitoring activities affecting or likely to affect the environment
- environmental permits, agreements and authorizations for activities with significant effects on the environment;
- environmental impact studies and risk assessments concerning environmental elements or a reference to the place where the information can be requested or found."

Practical measures for environmental information dissemination include: set-up and management of environmental information databases, periodical updateing of the databases, availability of the databases on Internet by means of public telecommunication network, design and development of a webpage on environmental information (LEPAs, REPAs, NEPA).

(f) According to the *Environmental Protection Law no.137/1995*, republished and amended by EGO no.91/2002, approved by *Law no.294/2003*, the operators have the obligation to inform the competent environmental authorities on the results of the pollutant emissions self-monitoring and on the threats or the accidents that occurred. The operators have also the obligation to inform

the competent authorities and the public, in case of accidental releases of pollutants or major accidents.

Based on article 26 of the new GD 878/2005, the operators whose activities have a significant impact on the environment have the obligation to inform the public, 4 times/year, about the environmental consequences of their activities/products by displaying the information on their websites and by other communication tools.

In the past few years, many Romanian enterprises began to adopt voluntary management systems (EMAS).

(g) The national legal framework for granting eco-labels includes:

- GD 189/2002 on the eco-labelling procedure
- MO 1010/2002 on designation of the members of National Commission for Granting Eco-label
- MO 1327/2003 amending MO 1010/2002.

17 Government Decisions setting out criteria for granting eco-label on various products.

(h) Romania signed the Protocol on Pollutant Release and Transfer Registers on 21 May 2003 at Kiev, which shall be ratified by law.

MEWM issued the MO 1144/2002 on setting up the Register on Pollutant release by activities subject to GEO 34/2002 on Integrated Pollution Prevention and Control (EPER under the IPPC Directive).

According to MO 1144/2002, NEPA is preparing, as the second exercise, the National Pollutant Register. This register is completed and submitted for approval to the Inter-ministerial Committee for integrating environmental policies into sectoral policies. Afterwards, the pollutant register will be made available on the NEPA's website.

12. Describe any obstacles encountered in the implementation of any of the paragraphs of article 5.

The economic operators do not pay sufficient attention to the reporting requirements.

13. Provide further information on the practical application of the provisions on the collection and dissemination of environmental information in article 5, e.g. are there any statistics available on the information published?

According to article 5 in Law 544/2001, the public authorities shall prepare and publish annual reports containing the types of information of public interest.

GD 123/2002, article 27 provides for every public institution or authority to prepare, through their Public Relations Departments, annual reports on the access to information of public interest.

The types of environmental information have been compiled by MEWM in 2004 and by NEPA in 2005 according to the requirements in the GD 1115/2002, GD 878/2005 and MO 1182/2002;

the list of environmental information is updated annually and is available on the NEPA website (www.anpm.ro).

14. Give relevant website addresses, if available:

www.anpm.ro; www.arpmbc.ro; www.arpmgl.ro; www.armpitesti.ro; www.mediucraiova.ro; www.ipmtm.ro; www.arpmcluj.ro; www.ipmsb.ro; www.arpm.ro

ARTICLE 6

15. List legislative, regulatory and other measures that implement the provisions on public participation in decisions on specific activities in article 6.

Article 2 of the GD 878/2005 transposes the definitions “environmental information”, “public authority”, “information held by public authority”, information held for a public authority”, “applicant” and “public”.

The definition of the “public concerned” is not yet transposed in a specific piece of legislation but we can consider it as part of national law because the Aarhus Convention has been ratified by *Law no.86/2000*.

The non-discrimination requirement is part of national law by means of *Law no.86/2000* that ratified the Aarhus Convention.

- (a) (i) In Romania, public participation to the environmental decision-making process comprises the involvement of the public within the assessment of the projects, plans and programmes and also within the assessment of the activities.

Regarding the public participation to the assessment of the projects, the modalities and the deadline are stipulated in MO 860/2002. The project and the EIA Report are made available for public consultation for a period of 30 working days. During this time, the public may send comments and opinions to the competent environmental authority and to the developer. The project and the EIA Report are subject to a public debate. The public may also make comments during the public debate.

- (ii) According to the national legislation in force, the public participation is part of the regulation procedure for all the projects/activities that might have significant environmental impact.

An electronic database at national level for the permitting procedure of public and private projects likely to have significant impact on the environment (EIA Database), based on the provisions of MOs 860/2002, 863/2002 and 864/2002, is being developed.

This database contains information on every step of the permitting procedure, including references for public participation (public announcements, public debates) and is available on the NEPA website.

- (b) According to the national legislation in force, the public is informed early in the environmental decision-making process, i.e. starting with the announcement of the submitted application for the final decision for a project/plan/programme or for the environmental permit

for an activity. As we mentioned above, the modalities for public participation are provided for by the normative acts in force on regulation procedures for plans, programmes, projects and activities.

The public is informed about the following issues by newspaper announcement and by announcement displayed on the web page of the competent environmental authority and on the developer's web page:

- the submitted application;
- the screening stage decision;
- time and venue of the public debate and the possibility to consult the EIA/SEA documentation or the environmental permit documentation;
- the final decision/permit.

(c) - (e) The provisions of MO 860/2002 approving the procedure for EIA and for issuing the environmental agreement and those of the GD 1076/2004 for setting up the environmental assessment procedure of certain plans and programmes meet the requirements on public participation and their time frames.

The legislation in force provides for determined time frames for different public opportunities to participate in the decision-making process, e.g.: 30 working days before the public debate of the EIA report, 10 working days for contest of the screening decision, and 10 working days for contesting the final decision of the EIA procedure.

EIA guidance have been developed and recommend that the developers must promote their projects within the public concerned and encourage them to provide project presentations before the application for a final decision/permit.

(f) – (j) According to article 12(1) of GD 918/2002 on the environmental impact assessment framework procedure and for approving the public or private projects list subject to this procedure, “the competent authorities for environmental protection shall inform the public on any request for development consent requiring EIA, in a time frame sufficient for the public to express opinions, before issuing the environmental agreement.” Paragraph (2) of this article sets out the general terms for public participation in EIA procedure. Based on this GD, there have been issued three MOs (860/2002, 863/2002 and 864/2002) containing detailed provisions which guarantee effective public participation in environmental decision-making, complying with the requirements of paragraphs 6 – 10 of the Convention.

See also the answer mentioned above at letters c)-e).

(k) Article 49 of the *Law 214/2002* approving the Governmental Ordinance (GO) 49/2000 on obtaining, testing, use and trade of GMOs resulting from the Modern Biotechnology in products stipulates that “the permitting procedure for the deliberate release onto environment and market of genetically modified organisms is public”;

After receiving the notification, MEWM has to inform and consult the public within 10 days, as follows:

- summary of the notification and the risk assessment study are displayed on the site www.mappm.ro;

- announcements are published in mass-media and are displayed at the headquarters of local environmental authorities;
- information on GMOs in Romania on website: www.biosafety.ro

Paragraphs (2) and (3) of this article set the timeframes for notifying the public and for receiving comments (30 days) to be taken into account in the permitting procedure. Depending on the received comments, public debates on any aspects of the regulated activities in the GMOs field can be organized.

16. Describe any obstacles encountered in the implementation of any of the paragraphs of article 6.

Lack of financial resources.

17. Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 6, e.g. are there any statistics or other information available on public participation in decisions on specific activities or on decisions not to apply the provisions of this article to proposed activities serving national defence purposes.

Every LEPA has public registers on the number of regulatory acts issued for the activities that have been subject to public participation.

18. Give relevant web site addresses, if available:

www.anpm.ro; www.arpmbc.ro; www.arpmgl.ro; www.armpitesti.ro; www.mediucraiova.ro; www.ipmtm.ro; www.arpmcluj.ro; www.ipmsb.ro; www.arpmb.ro

ARTICLE 7

19. List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Environmental impact is assessed when an authority is preparing plans and programmes which may have a significant environmental impact as implemented.

In 2000, the Ministry of Waters, Forests and Environmental Protection issued the MO no. 1325 on public participation during the preparation of plans, programmes, policies and legislation relating to the environment.

The provisions of the Directive 2001/42/EC are transposed by GD 1076/2004 for setting up the environmental assessment procedure of certain plans and programmes.

The relevant definitions in article 2 are transposed as following:

1. Public authority:
 - GD 878/2005 on public access to environmental information, that transposes Directive 2003/4/EC
2. Public:
 - *Law 137/1995* on environment protection, as amended by GEO 91/2002 , approved by *Law 294/2003*, Annex
 - GD no.1076/2004 establishing the environmental assessment procedure of certain plans and programmes, art. 2
 - GD 878/2005 on public access to environmental information.

The non-discrimination requirement in article 3, paragraph 9 is part of the national law as a result of ratification of the Aarhus Convention.

20. Explain what opportunities there are for public participation in the preparation of policies relating to the environment.

The public participation in the preparation of plans, programmes, policy and legislation relating to the environment is meant to establish a permanent dialogue between the authorities and the representatives of the public. (MO 1325/2000 on public participation during the preparation of plans, programmes, policies and legislation relating to the environment, art. 1).

21. Describe any obstacles encountered in the implementation of article 7.

Unawareness of the public on environmental matters due to different reasons: living standard, information means, age, education, professional interest, etc.

22. Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 7.

23. Give relevant website addresses, if available:

www.anpm.ro; www.arpmbc.ro; www.arpmgl.ro; www.armpitesti.ro; www.mediucraiova.ro; www.ipmtm.ro; www.arpmcluj.ro; www.ipmsb.ro; www.arpm.ro

ARTICLE 8

24. Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

In Romania, public participation during the preparation of the legislation is accomplished according to the *Law no.52/2003* on decisional transparency in public administration, which stimulates the active participation of citizens to the process of elaboration of normative acts and to the decision-making process.

The public authority has the obligation to publish the announcement regarding the drafted normative act on its web site, to post it at its headquarters and, as appropriate, to send it to the local or central media.

Upon receipt of a request expressed in writing, the public authority sends a copy of the normative act to the citizen concerned.

The announcement must be published at least 30 days in advance of the submission of the normative act to adoption, approval or endorsement.

The public authorities have the obligation to establish a period of at least 10 days for receiving the public comments.

The MO 1325/2000 on public participation during the preparation of plans, programmes, policies and legislation relating to the environment establishes a dialogue between the public environmental authorities and the NGOs, through a working group.

25. Describe any obstacles encountered in the implementation of article 8.

- Insufficient human resources within the public authorities;
- Short deadlines for issuing normative acts or other documents;
- Difficulties in appointing representatives of NGOs (a large no. of NGOs at national level) for the dialogue with the public authorities

26. Provide further information on the practical application of the provisions on public participation in the field covered by article 8.

27. Give relevant website addresses, if available:

www.pronatura.ro; <http://eea.ngo.ro>; <http://terraiii.ngo.ro>.

ARTICLE 9

28. List legislative, regulatory and other measures that implement the provisions on access to justice in article 9.

- (a) (i) This provision is covered by *Law 554/2004* on administrative contentious, article 1, paragraph (1) – (4), article 7, paragraph (1) – (4), (7).

For the purpose of complete transposition of the Directive 2003/4/CE on free access to environmental information, Romania has issued GD 878/2005 which repealed the GD 1115/2002. In GD 878/2005, article 16-19 provide access to justice regarding Pillar one of the Aarhus Convention.

- (ii) The provision can be found in *Law 544/2001* on free access to public information, in article 7 of *Law 554/2004* on administrative contentious and also in article 16 (1) - (3) of GD 878/2005.

(iii) Civil Procedure Code, article 261, article 376 (1)

- *Law 554/2004* on administrative contentious, article 22, 24, 25
- *Law 544/2001* on free access to public information, article 22(4), indicates that the decisions of the Courts of appeal are definitive and irrevocable.
- GD 878/2005, article 19.

(b) According to *Law 554/2004*, the courts of law are also competent to rule on the legality of administrative acts, actions or omissions that grounded the issuing of the administrative final decisions.

The draft GD for the transposition of article 3 of the Directive 2003/35/EC will provide for access to justice related to the EIA procedure, in the context stipulated by the Aarhus Convention (art. 9, para. 2).

(c) Romanian Constitution, article 21 (1) stipulates that any person can bring a case before a court of law in order to protect his/her rights, freedoms and legitimate interests;

Law 554/2004 on administrative contentions, article 1, 20.

- (d) (i) *Law 554/2004* on administrative contentions contain provisions on the remedies that may be granted for the damages that have been suffered.
- (ii) *Law 554/2004* on administrative contentions provides specific deadlines and reasonable taxes.

According to the Civil Procedure Code, all court decisions are given in written format and contain *de facto* and *de jure* motives.

(e) GD 878/2005, article 15 provides that in case of refusal of a request for environmental information, the public authorities must provide information about access to justice.

29. Describe any obstacles encountered in the implementation of any of the paragraphs of article 9.

30. Provide further information on the practical application of the provisions on access to justice pursuant to article 9, e.g. are there any statistics available on environmental justice and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?

Every LEPA and REPA has information about the number of administrative complaints and cases brought before the courts of law regarding environmental information.

31. Give relevant website addresses, if available:

<http://www.just.ro> for the Ministry of Justice; www.tmb.ro for the Bucharest Tribunal.
Information may be asked at: bucur@mappm.ro; ipmbacau@mido.ro; mediu@arpmgl.ro; apm.ag@rdslink.ro; office@ipmtm; apm.sb@ipmsb.ro;

32. If appropriate, indicate how the implementation of the Convention contributes to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.

The implementation of the Convention on access to information, public participation in decision-making and to justice in environmental matters, done at Aarhus, Denmark, on 25 June 1998 creates a general legislative framework which assures the sustainable development and the environment's protection, by taking into account that better access to information and public participation into the process of decision-making improve the quality of public authority decisions, contribute to the public awareness on environmental matters and promote the ecological education for the purpose of a more profound comprehension of environmental matters.