



General Directorate for Impact Assessment and Pollution Control

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To: Compliance Committee of the Aarhus Convention

Aarhus Convention Secretariat

Ref: the participation of Romania in the CC open session on decision VI/8h on March 15th, 2019

Dear Chair,

We have the pleasure to forward to you our statement delivered during the open session of the Compliance Committee which was held on March 15th, 2019.

We participated in the open session meeting via audio-conference means.

On that occasion we addressed thanks to the Compliance Committee for its assessment of Romania's activity which was forwarded to us in the document „First progress review of the implementation of Decision VI/8h on compliance by Romania with its obligations under the Convention”.

Based on the progress report submitted by RO on 1 October 2018 to the CC, we were found to have fulfilled the recommendation in para 2 (c) of Decision VI/8h.

During the session we made the following statement:

- The improvements of the legislative acts

Recently, the Romanian Ministry of Environment has transposed in national legislation the latest amendments of the EIA Directive - *Directive 2014/52/EU of the Parliament and of the Council of 16 April 2014, on the assessments of the effects of certain public and private projects on the environment*.

The new EIA law is *Law nr.292/2018 on the impact assessment of public and private projects on the environment*, published in the Official Journal of Romania, Part I, nr.1043/10.12.2018 and is in force.

This law contains requirements regarding public information and public participation procedure when EIA authorization is required for projects, according to the list of projects annexed to the EIA Directive (Annex I and II).

Particular attention is granted to the issue of access to justice, in this regard three articles transpose the same provisions of the EIA Directive.

Even not provided in the audio-conference of the open meeting held on March 15th, 2019 we would like to quote here the above mentioned articles:

„ Art.21 - (1) Any member of the public concerned, or any person who considers himself or herself having an impairment of a right or of his/her legitimate interest, may address to the competent administrative litigation court to challenge, in procedural or substantive terms, acts, decisions or omissions of the competent public authority subject to public participation, including development consent, according to the provisions of the Law on administrative contentious no. 554/2004, as subsequently amended and supplemented.

(2) Any non-governmental organization that meets the requirements of art. 2 lit. f)¹ may address to the competent administrative litigation court, considering that it is injured in a right or in a legitimate interest.

(3) The acts or omissions of the competent public authority subject to public participation shall be challenged in court together with the screening decision, the environmental agreement or, as the case may be, with the decision to reject the request for the environmental agreement, respectively together with the development consent or, as the case may be, with the decision to reject the application for development consent.

Art. 22 - (1) Prior to appealing to the competent administrative court, the persons referred to in Art. 21 have the obligation to request the public authority issuing the decision provided by art. 21 para. (3) or the hierarchically superior authority to revoke, in whole or in part, that decision. The request must be registered within 30 days of the date of the decision being made public.

(2) The issuing public authority has the obligation to respond to the prior complaint provided in paragraph (1) within 30 days of the date of its registration with that authority.

(3) The procedure for resolving the prior complaint provided for in paragraphs (1) and (2) is free of charge and must be equitable, timely and fair.

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Art. 24 - The acts and decisions provided by the present law must include concrete information on the public access to the procedures provided by art. 21 and 22.”

We have also payed attention to the issue of interpreting the grounds for refusing access to environmetal information in a restrictive way.

We quote below from the text of the Law no.292/2018:

“Section 4 Final Provisions

Art.29.-(1) In the application of the present law, the competent authorities comply with the restrictions imposed by the legislation on commercial and industrial secrecy, including intellectual property, taking into account the need to protect the public interest.

¹ Art.2 lit.f) is the definition of the public as promoted by the Aarhus Convention in its art1, para 4

(2) In response to a request for environmental information subject to the restrictions set out in paragraph (1), the competent authorities are obliged to interpret the grounds for refusal in a restrictive way, giving priority to the public interest by disclosing and providing the information which can be separated from those which are restricted.

(3) In response to a request for environmental information according to the provisions of para. (2), the competent authorities explain how they have taken into account the public interest.

(4) In case of application of art. 17², the transmission of information to other states and their reception by the Romanian State are subject to the restrictions provided by the national legislation in force in the state in which the project is to be carried out.”

We also intend to modify the *GD 878/2005 on public access to environmental information* in order to take into account the recommendations of the ACCC.

- The steps taken in order to ensure training.

We intend to organize some training courses to be undertaken within the National Institute of Magistracy (NIM) in Bucharest. These would be the first training courses for the auditors of justice (trainees, before becoming senior judges or prosecutors).

We are preparing a curricula for such courses which will be proposed to the leadership of the NIM, for agreement.

The proposed curricula for the training courses in NIM:

1. Effects of issuing a non-compliance decision by the Aarhus Convention Compliance Committee for a state that has ratified the Convention
2. Environmental information in the general context of information of public interest and classified information (Law 544/2001 on information of public interest, updated in 2019 and Law 182/2002 regarding the protection of classified information, as amended and completed)
 - Environmental information definition
 - Priority of public interest in providing environmental information against confidentiality provided by legal provisions
 - Redact the confidential information from non-confidential information and public availability of the latter
 - Totally denied information
 - Partially denied information
 - Denied access to environmental information based on confidentiality
 - Administrative review procedure

² Art 17 refers to the EIA in a transboundary context, as required by the new EIA Directive

- Challenges in court as a consequence of denied access to environmental information
3. Acces to justice according to art 9 of the Aarhus Convention
- Prioritizing and celerity settlement of environmental disputes in national courts
 - Settlement procedure - Law no. 544/2004 of administrative contentious, as amended
 - Any recent information on environmental cases settled in national courts

We also envisage training courses for the public officials.

- The stage of the draft Strategy to implement the recommendations in decision VI/8h;

The draft strategy is in its final stage and is going to be circulated for comments to public authorities and NGOs.

We can mention also that we are working on developing a flyer for the public on the provisions of the Aarhus Convention.

We are also working on a Brochure for civil servants involved in the process of answering to requests for environmental information.

General Director

Dorina MOCANU



Head of EIA Office

Daniela PINETA

