

## Question 1

1. List in order the sequence of decisions required to permit the extension of a quarry under the law of the Party concerned

The decisions issued for for the extension of a quarry in Gorj County are:

- The concession license for exploitation issued by the National Agency for Mineral Resources (NAMR)
- Governmental Decision ( GD) for approval of the concession license for exploitation
- Additional act to the concession license for extension of the mine exploitation GD for approval of the additional act for extension
- Country/and urban planning for Gorj County - SEA procedure
- Environmental Agreement= the EIA decision for the EIA procedure, includig public participation according to art.6 of the Aarhus Convention
- Development consent = the Construction authorization
- Development consent = decision for approval of temporary occupation or permanent removal of a land from the national forestry fund
- Development consent = dismantling/demolition authorization
- Forest exploitation authorization
- The environmental authorization

A schematic presentation/diagram can be seen in the document called „Schema decizii mina EN”.

### Comments related to the above mentioned decisions

The concession licenses for exploitation are issued by the National Agency for Mineral Resources (NAMR) in 2000, 2001, 2002.

### The history of the mining quarries

Gorj County contains surface and depth mineral resources, widespread throughout the county. Lignite represents a mineral resource in greater quantity, it is exploitable on the surface especially in the west of the county (Motru-Rovinari basins),

The forests are spread mostly in the northern part of the county, as well as the valleys of the main watercourses.

The Gorj County industry is dominated by extractive and energy production activities. Mining works in Gorj county began in the 1970s, under the communist regime and continues today.

During that period, the Gorj County Council issued building permits/authorizations for starting mining works in 1975, 1978, 1979, 1983, 1985, 1984, 1986,1987 under which the mines were opened and started the activity.

So, the opening of the mining perimeters took place on the basis of the authorizations issued by the People's Council of Gorj County, today the Gorj County Council, at the request of the mining companies during that period. The mining companies were the property of the Romanian state/were state-owned enterprises.

We list below the following authorizations for the mining works:

- authorization 81/April 1983 for Works for maintaining and developing the production capacity at 5000 thousand tonnes/year lignite at the Tismana I quarry;
- authorization 169/06 March 1978 for Mining Constructions - Tismana II mining works;
- authorization 207/13.01.1986 for Works for the opening and commissioning of the Rosiuta quarry, Gorj county, at a capacity of 3,000,000 tonnes / year;
- authorization 84/07.06.1984 for Maintaining coal production capacity at Lupoaia quarry during 1982-1985;
- authorization 189/10.02.1975 for the Opening and exploitation of the lignite reserves in the Pesteană mining field;
- authorization 64 / 25.05.1987 for Works for commissioning and reaching the final production capacity at 11 000 000 tonnes/year lignite in the Jilt Sud mining quarry, Gorj county, including those for maintaining the existing production capacity;
- authorization 3 /25.01.1985 for the opening and commissioning of the North Jilt quarry, at the capacity of 4 500 000 tonnes/year;

In 1998, the Mining Law no. 61 (Official Gazette of Romania, Part I, no. 113 of March 16, 1998) enters into force. This law obliges mining companies to request the administration or the concession assignment of the mining perimeters for exploration, development and exploitation (art. 46) (state property is concessioned, for a certain period of time).

According to the provisions of this law, the license is - the legal act concluded between the grantor and the concessionaire, in order to carry out mining activities.

The operating license is granted for a maximum of 20 years, with the right of extension for successive periods of 5 years.

The license is concluded in written form; for exploitation, the license enters into force after its approval by the Government.

Based on Law no.61/1998, the competent authority is NAMR (National Agency for Mineral Resources).

Based on this law, the concession licenses for the mining perimeters are issued by NAMR (see table below).

In 2009, the NAMR issues and approves additional acts for the exploitation licenses, acts that have the purpose of extending the surface of the mining perimeters.

Tabelul de mai jos exemplifica situatia licentelor de exploatare emise de ANRM, inclusiv extindere suprafetelor aprobate prin licenta si faptul ca in procedurile EIA desfasurate in 2015 s-au luat in considerare perimetrele extinse, evaluare de impact s-a facut pe suprafata extinsa a perimetrelor miniere.

The first table below exemplifies the situation of the operating licenses issued by NAMR, including the extension of the surfaces approved by the licenses.

The second table below exemplifies the fact that in the EIA procedures carried out in 2015, the extended perimeters were taken into account, and the impact assessment was made on the extended surface of the mining perimeters.

For the elaboration of this letter, the area registered in the Environmental Agreements issued for each career was verified and this corresponds to the extended surface of each career.

No. crt	Perimeter	License Number	Guvernmental Decision	Initial surface (kmp)	Total surface after extension (kmp)	Additional act for extension	Validity (years)	Expiry deadline
1	Pesteană Nord	1457/2000	319/11.03.2004	7.328	11,762	2/2009	20	22.03.2024
2	Pesteană Sud	1458/2000	319/11.03.2004	4.766	6.283	2/2009	20	22.03.2024
3	Rosia de Jiu	3496/2002	1293/24.10.2007	17.388	19.913	4/2018	19	30.10.2026
4	Tismana I	2717/2001	328/18.03.2004	8.888	9,716	2/2009	19	28.03.2023
5	Tismana II	2718/2001	328/18.03.2004	6.691	7,405	2/2009	20	28.03.2024
6	Pinoasa cariera	3499/2002	1221/01.10.2008	15.814	15,814	-	19	07.10.2027
7	Jilt Nord	2602/2001	1647/10.12.2008	6.914	9,072	2/2009	18	18.12.2026
8	Jilt Sud	2603/2001	1646/10.12.2008	16.975	19,231	2/2009	19	18.12.2027
9	Lupoaia cariera	3498/2002	1295/24.10.2007	14.231	23,679	2/2009	20	30.10.2027

No. crt.	Quarry	The concession license for exploitation	GD approval of the license	Total surface after extension km <sup>2</sup>	2015 EIA assessed surface Km <sup>2</sup>
1.	Pesteană Nord	1457/2000	319/11.03.2004	11,762	11,762
2.	Pesteană Sud*	1458/2000	319/11.03.2004	6.283	6.283
3.	Rosia de Jiu**	3496/2002	1293/24.10.2007	Nu s-a extins înainte de 2018	17,388
4.	Tismana I	2717/2001	328/18.03.2004	9,716	9,716
5.	Tismana II	2718/2001	328/18.03.2004	7,405	7,5
6.	Pinoasa cariera	3499/2002	1221/01.10.2008	15,814	15,814
7.	Jilt Nord	2602/2001	1647/10.12.2008	9,072	9,072
8.	Jilt Sud	2603/2001	1646/10.12.2008	19,231	19,231
9.	Lupoaia cariera	3498/2002	1295/24.10.2007	23,679	23,679

\*For South Pesteană, the Oltenia Energy Complex SA withdrew the request for issuing the environmental agreement, it gave up the operation for resource depletion.

\*\*for Rosia quarry, the area assessed in the EIA procedures is the initial one, for the extension approved in 2018, the Oltenia Energy Complex SA is now in the procedure for revising the environmental agreement issued in 2015/2016.

In 2003 the Mining Law no.85 comes into force, repealing the Law 61/1998 but which does not change, in substance, the provisions of the previous law. One of the differences between the old law and the new law is that by Law no. 85/2003 the granting of exploitation licenses is done by tender auction.

Currently, the Oltenia Energy Complex SA has in its administration the lignite perimeters subject of the communication, based on the concessions granted by NAMR.

In order to regulate the mining perimeters from the urbanistic and territorial point of view, plans were elaborated and made subject to the SEA procedure according to the Directive 2001/42 /EC transposed into the national legislation by the GD 1976/2004.

Further to the issuance of the exploitation licenses and after their approval by the Government Decisions, the Regional Environmental Protection Agency Craiova issued, at the end of SEA procedure, which included the public consultation as well, the following environmental approvals:

- Environmental Approval no.1/19.05.2006 for the „Plan for the inter-communal area of Matasari, Slivilesti, Dargotesti, Negomir, Farcasesti si Ciuperceni for the purpose of declaring the public utility of the mining objectives within C. E. Turceni- Jilt N Pit and Jilt S Pit.
- Environmental Approval no.3/22.09.2006 for the „Plan for the inter-communal area of the town of Rovinari and the are of Farcasesti, Balteni, Urdari and Plopsoru for the purpose of declaring the public utility of the mining objectives within SNLO Tg Jiu- EMC Rosia - Rosia Pit, Pesteană N Pit and Pesteană S Pit.
- Environmental Approval no.5/14.12.2006 for the „Plan for the inter-communal area of Negomir, Farcasesti, Calnic, Dragutesti, Balteni, Rovinari town for the purpose of declaring the public utility of the mining objectives within CE Rovinari - Timiseni - Pinoasa Pit, Tismana I Pit, Tismana II Pit, Garla Pit and East Rovinari Pit.
- Environmental Approval no.6/30.03.2012 for the „Plan for the development of the Gorj County territory”

The 2015 EIA procedures conducted by the Local Environmental Protection Agency Gorj (LEPA Gorj) were carried out for the „on going/continuation of the mining works within the perimeter of every mining pit”. That means that the EIA procedures assessed the impact of the mining activities on the total surface of every pit (initial surface aproved by the concession licence + the extended surface in 2009).

The NAMR confirmed the surface of every mining pit for the EIA procedures in 2015, and LEPA Gorj carried out the EIA procedures during the validity period of the license and on the entire surface, as extended, of the perimeter.

At the end of the 2015 EIA procedure, as a development consent, no new construction authorizations were issued for the lignite pits for the on-going mining activities, because these were not construction activities, and the Gorj County Council informed Oltenia Energy Complex SA that the old construction authorizations are still in force.

From the forest management point of view, the development consent, as provided by the GD 445/2009 is the decision of the forestry authorities for the permanent occupation of the forestry land.

The provisions of the Environmental Agreement refering to deforestation are: ”the deforestation is done in stages, within the limit of the approved mining perimeter to ensure the working front in the current year for the following year”.

For this reason, the decisions for permanent ocupation of the forestry land are more than 1 per year, as the front work advances/is progressing in the quarry/pit.

The Oltenia Energy Complex SA informed us that during 2016- 2020 no deforestation decisions were issued by the Forestry Guard, former called ITRSV.

Further to the issuance of the environmental agreements for the entire licensed perimeter, during 2016 -2020 period, 4 Governmental Decisions (GD) were issued for the approval of permanent removal of land from the national forestry fund, as follows:

- GD no.913/15.11.2018 for a surface = 110,1079 ha for the Jilt Nord Pit, currently deforested surface = 75,60 ha, deforestation still on going;
- GD no.86/15.02.2019 for a surface = 9,9991 ha, for the Tismana I Pit, deforestation done on the mentioned surface;
- GD no.515/17.07.2019 for a surface = 81,0248 ha, for the Rosia Pit, currently deforested surface = 13,10 ha, deforestation still on going;
- GD no.516/17.07.2019 for a surface = 28,5663 ha, for the Jilt Sud Pit, currently deforested surface = 3,00 ha, deforestation still on going;

Another development consent is the dismantling/demolition authorization which is issued per each house, for the resettlement/relocation of the families.

Between 2016 and 2020, the situation of demolition of houses is as follows:

- for excution of the mining works in Tismana I and Tismana II Pits, Rosia Pit, Pesteană Nord and South Pits, Jilt Sud Pits, no demolition was needed.
- for excution of the mining works in Pinoasa Pit: 22 houses were dismantled, out of which 3 were located in Timiseni village, 13 in Rogojelu Village, 5 in Negomir village, 1 in Pinoasa village.
- for excution of the mining works in Jilt Nord Pit: 41 houses were dismantled in Runcurel village;
- for excution of the mining works in Lupoia Pit: 4 houses were dismantled out of which 3 in Lupoia village and 1 in Rosiuta village.

According to the statements of the Forestry Department within the Ministry of Environment, Waters and Forests, the development consent for deforestation is the Forest exploitation authorization issued for the operator in charge with deforestation/harvest the wood, which is different from the Oltenia Energy Complex SA.

After the Environmental Agreement is issued as a consequence of the EIA procedure, for the extraction activity itself, the environmental authorization is required and obtained by the Oltenia Energy Complex SA. The environmental authorization is issued by the LEPA Gorj for every mining pit.

Since the excavation of the mining pits is an old activity, the LEPA Gorj issued environmental authorizations even before 2015 or 2016, as well as after the environmental agreement is issued in 2015/2016, as follows:

- Pinoasa Pit - environmental authorizations issued in 2003, 2005, 2009 revised in 2013, 2014, 2020;
- Tismana Pit - environmental authorizations issued in 2009, 2014, 2016, 2019;
- Rosia Pit - environmental authorizations issued in 2010 revised in 2013, 2017 ;
- Pesteană Nord Pit - environmental authorizations issued in 2009, 2016, 2017;

- Pesteana Sud - environmental authorizations issued in 2013, then in 2015 the environmental agreement was rejected because the lignite resource was depleted.
- Lupoia Pit - environmental authorizations issued in 2010 revised in 2013, 2018;
- Jilt Nord Pit - environmental authorizations issued in 2002, 2004, 2005, 2009, 2012, 2016;
- Jilt Sud Pit - environmental authorizations issued in 2002, 2004, 2005, 2009, 2012, 2015 and revised in 2017, rectified in 2018.

## Question 2

2. With respect to the decisions listed in your reply to question 1, please specify:

- a. To which of these decisions does art.6 of the Convention apply ?
- b. Which of these decisions is the final permitting decision ?
- c. What is the competent authority for:
  - i. the final permitting decision
  - ii.any other decisions that you have listed in your reply to question 2(a) ?

Article 6 of the Aarhus Convention is called „Public participation in decisions on specific activities”

The pits are listed under point 16, Annex I of the Aarhus Convention.

- a. Art.6 apply to the following decisions: environmental agreement, development consent, environmental authorization.

The environmental agreement issued for the 2015 EIA procedure was subject to the public participation procedures in accordance with the EIA provisions which are in compliance with article 6 of the Aarhus Convention.

The environmental authorization is a regulatory act that doubles the environmental agreement issued as a result of the EIA procedure, the legislator allowed that in this case the environmental authority must publish the application for the environmental authorization, the documentation on which this authorization is issued and the final decision taken/draft environmental authorization. The environmental authorizations issued after the EIA was undertaken, were based on the EIA documentation and/or on the „environmental balance”.

The development consent issued by ITRSV, as it is provided by the GD 445/2009, articles 15,16, 18 and 21 is subject to public participation.

- b. The final permitting decision is the environmental authorization - for the excavation works, the deforestation decision for the deforestation component of the project, for a new project the construction authorization would have been the final permitting decision, but the pits are old and are operated since 1975 based on the Authorizations for mining works issued before 1990 and still valid, as confirmed by the Gorj County Council.

All the environmental agreements issued in 2015- 2016 are reflecting the 2 components of the pits: the component dedicated to excavation works and the component dedicated to deforestation. Romania emphasizes the fact that within the EIA procedures developed in 2015 are environmental impact assessments done on the whole surface approved within the mining license and the cumulative impact was assessed for the new excavations, as well as for the old excavations and, as well as for the works within the pits situated in the neighborhood.

- c. The competent authority for issuing the environmental agreement and the environmental authorization is LEPA Gorj.

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The competent authority for issuing the decision for temporary occupation or permanent removal of forestry land from the national forestry fund is the Forestry Guard - for surfaces smaller than 1 ha, or the central public authority for the forests management (Ministry) - for surfaces greater than 1 ha (by Ministerial Order for surfaces under 10 ha or by Government Decision for surfaces greater than 10 ha).

The competent authority for issuing the construction/demolition authorizations is the County Council Gorj, because the pits are located within the Gorj County.



### Question 3

3. Were each of the documents listed in points a) to e) in page 1 of the Party concerned's response to the communication of 17 May 2017 made available to the public at the time of the 2015 EIA procedure on each pit ? If not, which ones were made available to the public at the time of the 2015 EIA procedures?

The documents listed in points (a) to (e) on page 1 of our response to the communication of 17 May 2017 were not available to the public at the time of the 2015 EIA procedure on each pit.

The documents listed in points (a) to (e) are required by Mining Law no.85/2003 and were required as well by the previous Mining Law no.61/1998 when an applicant submits his application for an exploitation license to NAMR. According to article 20 of the Law no.85/2003 ( and article 10 para 3 of the Law no61/1998) these documents must accompany the application for the exploitation license.

Therefore, the environmental impact assessment study required for the issuance of the concession license for exploitation was not sent to LEPA Gorj at the time of its submission to NAMR and was not made available to the public when the NAMR issued the concession license for exploitation.

At the time of the 2015 EIA procedure of each pit, the following documents were made available to the public for each pit:

- the scoping document;
- the environmental impact assessment study (EIAS) and its subsequent additions-

EIAS -evaluates the significant effects on the population and the environment (fauna, flora, soil, water, air, climate) generated by the mining activity of the pit, by the use of natural resources, the emissions of pollutants and the management of waste (in accordance with art 5 and Annex IV of the Directive) . It also evaluates the impact for the entire activity, analyzing the cumulative effects of previous and future activities, on the entire surface of the perimeter approved by the NAMR license.

- the form/template/format with solutions which solve problems reported by the public;
- environmental forestry data and water management data;
- site plan for deforestation;
- waste management plan;
- environmental rehabilitation plan;
- health study;
- maps for pits location related to Natura 2000 sites;
- environmental reports for county planning;
- environmental approvals for county planning.

The above mentioned documents can still be accessed on LEPA Gorj web site at links below, for example, for Pinoasa quarry:

[http://www.anpm.ro/web/apm-gorj/documente-procedura-eim-si-ea/-/asset\\_publisher/Wzb2ztRkJWtj/content/completarile-raportului-la-studiul-de-impact-asupra-mediului-umc-pinoasa?\\_101\\_INSTANCE=Wzb2ztRkJWtj&redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp\\_id%3D101\\_INSTANCE=Wzb2ztRkJWtj%26p\\_lifecycle%3D0%26p\\_state%3Dnormal%26p\\_mode%3Dview%26p\\_col\\_id%3Dcolumn-2%26p\\_col\\_count%3D1%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&advancedSearch%3Dfalse%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&keywords%3D%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&delta%3D100%26p\\_r\\_p\\_564233524\\_resetCur%3Dfalse%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&cur%3D3%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&andOperator%3Dtrue&redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp\\_id%3D101\\_INSTANCE=Wzb2ztRkJWtj%26p\\_lifecycle%3D0%26p\\_state%3Dnormal%26p\\_mode%3Dview%26p\\_col\\_id%3Dcolumn-2%26p\\_col\\_count%3D1%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&advancedSearch%3Dfalse%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&keywords%3D%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&delta%3D100%26p\\_r\\_p\\_564233524\\_resetCur%3Dfalse%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&cur%3D3%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&andOperator%3Dtrue](http://www.anpm.ro/web/apm-gorj/documente-procedura-eim-si-ea/-/asset_publisher/Wzb2ztRkJWtj/content/completarile-raportului-la-studiul-de-impact-asupra-mediului-umc-pinoasa?_101_INSTANCE=Wzb2ztRkJWtj&redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp_id%3D101_INSTANCE=Wzb2ztRkJWtj%26p_lifecycle%3D0%26p_state%3Dnormal%26p_mode%3Dview%26p_col_id%3Dcolumn-2%26p_col_count%3D1%26_101_INSTANCE=Wzb2ztRkJWtj&advancedSearch%3Dfalse%26_101_INSTANCE=Wzb2ztRkJWtj&keywords%3D%26_101_INSTANCE=Wzb2ztRkJWtj&delta%3D100%26p_r_p_564233524_resetCur%3Dfalse%26_101_INSTANCE=Wzb2ztRkJWtj&cur%3D3%26_101_INSTANCE=Wzb2ztRkJWtj&andOperator%3Dtrue&redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp_id%3D101_INSTANCE=Wzb2ztRkJWtj%26p_lifecycle%3D0%26p_state%3Dnormal%26p_mode%3Dview%26p_col_id%3Dcolumn-2%26p_col_count%3D1%26_101_INSTANCE=Wzb2ztRkJWtj&advancedSearch%3Dfalse%26_101_INSTANCE=Wzb2ztRkJWtj&keywords%3D%26_101_INSTANCE=Wzb2ztRkJWtj&delta%3D100%26p_r_p_564233524_resetCur%3Dfalse%26_101_INSTANCE=Wzb2ztRkJWtj&cur%3D3%26_101_INSTANCE=Wzb2ztRkJWtj&andOperator%3Dtrue)

for Rosia quarry:

[http://www.anpm.ro/web/apm-gorj/documente-procedura-eim-si-ea/-/asset\\_publisher/Wzb2ztRkJWtj/content/completarile-raportului-la-studiul-de-impact-asupra-mediului-umc-rosia?\\_101\\_INSTANCE=Wzb2ztRkJWtj&redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp\\_id%3D101\\_INSTANCE=Wzb2ztRkJWtj%26p\\_lifecycle%3D0%26p\\_state%3Dnormal%26p\\_mode%3Dview%26p\\_col\\_id%3Dcolumn-2%26p\\_col\\_count%3D1%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&advancedSearch%3Dfalse%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&keywords%3D%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&delta%3D100%26p\\_r\\_p\\_564233524\\_resetCur%3Dfalse%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&cur%3D3%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&andOperator%3Dtrue&redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp\\_id%3D101\\_INSTANCE=Wzb2ztRkJWtj%26p\\_lifecycle%3D0%26p\\_state%3Dnormal%26p\\_mode%3Dview%26p\\_col\\_id%3Dcolumn-2%26p\\_col\\_count%3D1%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&advancedSearch%3Dfalse%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&keywords%3D%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&delta%3D100%26p\\_r\\_p\\_564233524\\_resetCur%3Dfalse%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&cur%3D3%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&andOperator%3Dtrue](http://www.anpm.ro/web/apm-gorj/documente-procedura-eim-si-ea/-/asset_publisher/Wzb2ztRkJWtj/content/completarile-raportului-la-studiul-de-impact-asupra-mediului-umc-rosia?_101_INSTANCE=Wzb2ztRkJWtj&redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp_id%3D101_INSTANCE=Wzb2ztRkJWtj%26p_lifecycle%3D0%26p_state%3Dnormal%26p_mode%3Dview%26p_col_id%3Dcolumn-2%26p_col_count%3D1%26_101_INSTANCE=Wzb2ztRkJWtj&advancedSearch%3Dfalse%26_101_INSTANCE=Wzb2ztRkJWtj&keywords%3D%26_101_INSTANCE=Wzb2ztRkJWtj&delta%3D100%26p_r_p_564233524_resetCur%3Dfalse%26_101_INSTANCE=Wzb2ztRkJWtj&cur%3D3%26_101_INSTANCE=Wzb2ztRkJWtj&andOperator%3Dtrue&redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp_id%3D101_INSTANCE=Wzb2ztRkJWtj%26p_lifecycle%3D0%26p_state%3Dnormal%26p_mode%3Dview%26p_col_id%3Dcolumn-2%26p_col_count%3D1%26_101_INSTANCE=Wzb2ztRkJWtj&advancedSearch%3Dfalse%26_101_INSTANCE=Wzb2ztRkJWtj&keywords%3D%26_101_INSTANCE=Wzb2ztRkJWtj&delta%3D100%26p_r_p_564233524_resetCur%3Dfalse%26_101_INSTANCE=Wzb2ztRkJWtj&cur%3D3%26_101_INSTANCE=Wzb2ztRkJWtj&andOperator%3Dtrue)

for Tismana I quarry:

[http://www.anpm.ro/web/apm-gorj/documente-procedura-eim-si-ea/-/asset\\_publisher/Wzb2ztRkJWtj/content/completarile-raportului-la-studiu-de-impact-asupra-mediului-umc-tismana-cariera-tismana-i?\\_101\\_INSTANCE=Wzb2ztRkJWtj&redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp\\_id%3D101\\_INSTANCE=Wzb2ztRkJWtj%26p\\_lifecycle%3D0%26p\\_state%3Dnormal%26p\\_mode%3Dview%26p\\_col\\_id%3Dcolumn-2%26p\\_col\\_count%3D1%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&advancedSearch%3Dfalse%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&keywords%3D%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&delta%3D100%26p\\_r\\_p\\_564233524\\_resetCur%3Dfalse%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&cur%3D3%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&andOperator%3Dtrue&redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp\\_id%3D101\\_INSTANCE=Wzb2ztRkJWtj%26p\\_lifecycle%3D0%26p\\_state%3Dnormal%26p\\_mode%3Dview%26p\\_col\\_id%3Dcolumn-2%26p\\_col\\_count%3D1%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&advancedSearch%3Dfalse%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&keywords%3D%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&delta%3D100%26p\\_r\\_p\\_564233524\\_resetCur%3Dfalse%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&cur%3D3%26\\_101\\_INSTANCE=Wzb2ztRkJWtj&andOperator%3Dtrue](http://www.anpm.ro/web/apm-gorj/documente-procedura-eim-si-ea/-/asset_publisher/Wzb2ztRkJWtj/content/completarile-raportului-la-studiu-de-impact-asupra-mediului-umc-tismana-cariera-tismana-i?_101_INSTANCE=Wzb2ztRkJWtj&redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp_id%3D101_INSTANCE=Wzb2ztRkJWtj%26p_lifecycle%3D0%26p_state%3Dnormal%26p_mode%3Dview%26p_col_id%3Dcolumn-2%26p_col_count%3D1%26_101_INSTANCE=Wzb2ztRkJWtj&advancedSearch%3Dfalse%26_101_INSTANCE=Wzb2ztRkJWtj&keywords%3D%26_101_INSTANCE=Wzb2ztRkJWtj&delta%3D100%26p_r_p_564233524_resetCur%3Dfalse%26_101_INSTANCE=Wzb2ztRkJWtj&cur%3D3%26_101_INSTANCE=Wzb2ztRkJWtj&andOperator%3Dtrue&redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp_id%3D101_INSTANCE=Wzb2ztRkJWtj%26p_lifecycle%3D0%26p_state%3Dnormal%26p_mode%3Dview%26p_col_id%3Dcolumn-2%26p_col_count%3D1%26_101_INSTANCE=Wzb2ztRkJWtj&advancedSearch%3Dfalse%26_101_INSTANCE=Wzb2ztRkJWtj&keywords%3D%26_101_INSTANCE=Wzb2ztRkJWtj&delta%3D100%26p_r_p_564233524_resetCur%3Dfalse%26_101_INSTANCE=Wzb2ztRkJWtj&cur%3D3%26_101_INSTANCE=Wzb2ztRkJWtj&andOperator%3Dtrue)

#### Question 4

4. For each quarry listed below, please specify on what dates the deforestation activities approved through the deforestation decisions of the Forest and Hunting Inspectorate were carried out.

The information below is received from the Forestry Department within the Ministry of Environment, Waters and Forests :

It is not clear from the communication for what period of time the dates of deforestation are required.

We can mention that there have been disputes in the court between Râmnicu Vâlcea Forest Guard and the communicant- Asociatia Bankwatch Romania - on the issue of annulling a total number of 73 decisions related to mining quarries, decisions issued to permanently remove forest from the national forestry fund, for:

- Roşia Pit (litigation for 27 decisions),
- Pinoasa (litigation for 1 decision),
- Roşiuţa (litigation for 12 decisions),
- Jilţ Sud (litigation for 13 decisions),
- Jilţ Nord (litigation 19 decisions),
- Tismana II (litigation for 1 decision).

Following the definitive and irrevocable settlement of the disputes before the courts, 54 decisions were annulled, from the total of 73 decisions.

The remaining 19 decisions are related to Jilt Nord Pit and are still in the court.

All the 73 decisions initially in dispute became effective until the date of their final and irrevocable cancellation.

The forestry land related to the 54 decisions definitively and irrevocably annulled by the courts is presented as follows:

The Pit	Date of the ascertainment of Ramnicu Valcea Forestry Guard	Surface in the decisions	Consequence
Rosia	21.08.2018	24,5500 ha related to the 27 decisions were deforested and excavated	-
Pinoasa	25.07.2018	0,0540 ha related to the only decision were not deforested ; The decision for Pinoasa was annuled in court.	Ramnicu Valcea Forestry Guard decided that the deforestation was not going to be done any more
Rosiuta	05.09.2018	3,6843 ha related to 8 decisions were deforested and excavated ;	Ramnicu Valcea Forestry Guard decided that deforestation was not going to be done on

		2,1347 ha related to 5 decisions were not deforested. The 12 decisions (total surface of 5,8190 ha) were annuled	the surface of 2,1347 ha, any more
Jilt Sud	28.08.2018	6,3158 ha related to 12 decisions were deforested ; 0,2225 ha provided by Decision no. 67/18.06.2012 were not deforested and not affected by the mining works.	Ramnicu Valcea Forestry Guard decided that no deforestation was going to be done on the surface 0,2225 ha, any more
Tismana II	Decision no.5/07.02.2012 was annulled in court for the surface of 0,4925 ha, this surface is currently deforested.		

Currently, the Forest Guard Râmnicu Vâlcea is not aware of the existence of any litigation with Asociatia Bankwatch Romania in the matter of decisions issued for the North Pesteana, South Pesteana and Lupoia Pits.

Regarding Tismana I Pit, Asociatia Bankwatch Romania challenged in court a number of 17 decisions issued by our institution during the years 2012 - 2013, but by Sentence no. 6546 of November 15, 2016, the action was definitively dismissed as belatedly filed by the Bucharest Court.

We would also like to bring the the Compliance Committee attention the information below, submitted by Oltenia Energy Complex SA:

During 2016 - 2020, subsequently to the 2015 EIA procedure for each pit, Oltenia Energy Complex SA did not obtain deforestation decisions issued by the Forestry Guard / ITRSV.

During this period, 4 Government decisions (GD) were issued for approving the permanent removal of forest lands from the national forest fund, respectively:

Pit	GD	Surface approved by GD, ha	Currently deforested surface,ha	Obs
Jilt Nord	913/15.11.2018	110,1079	75,60	The deforestation is on going
Tismana I	86/15.02.2019	9,9991	9,9991	Deforestation done in 2019
Rosia	515/17.07.2019	81,0248	13,10	The deforestation is on going
Jilt Sud	516/17.07.2019	28,5663	3,00	The deforestation is on going

## Question 5

5. Please provide articles 14 and 15 of the Law 554/2004, referred to at page 4 of the communication, together with an English translation thereof.

We hereby provide articles 14 and 15 of the Law no.554/2004 of administrative contentious, as amended, in Romanian and in English.

Romanian:

### **Art 14 Suspendarea executării actului**

- (1) În cazuri bine justificate și pentru prevenirea unei pagube iminente, după sesizarea, în condițiile art. 7, a autorității publice care a emis actul sau a autorității ierarhic superioare, persoana vătămată poate să ceară instanței competente să dispună suspendarea executării actului administrativ unilateral până la pronunțarea instanței de fond. În cazul în care persoana vătămată nu introduce acțiunea în anularea actului în termen de 60 de zile, suspendarea încetează de drept și fără nicio formalitate.
- (2) Instanța soluționează cererea de suspendare, de urgență și cu precădere, cu citarea părților. Procedura prevăzută la art. 200 și 201 din Codul de procedură civilă nu este aplicabilă. Întâmpinarea este obligatorie și se depune la dosarul cauzei cu cel puțin 3 zile înainte de termenul de judecată. Reclamantul va lua cunoștință de conținutul întâmpinării de la dosarul cauzei. Instanța poate acorda un nou termen de judecată în cazul în care reclamantul solicită amânarea pentru a lua cunoștință de conținutul întâmpinării.
- (3) Când în cauză este un interes public major, de natură a perturba grav funcționarea unui serviciu public administrativ, cererea de suspendare a actului administrativ normativ poate fi introdusă și de Ministerul Public, din oficiu sau la sesizare, prevederile alin. (2) aplicându-se în mod corespunzător.
- (4) Hotărârea prin care se pronunță suspendarea este executorie de drept. Ea poate fi atacată cu recurs în termen de 5 zile de la comunicare. Recursul nu este suspensiv de executare.
- (5) În ipoteza în care se emite un nou act administrativ cu același conținut ca și cel suspendat de către instanță, acesta este suspendat de drept. În acest caz nu este obligatorie plângerea prealabilă.
- (6) Nu pot fi formulate mai multe cereri de suspendare succesive pentru aceleași motive.
- (7) Suspendarea executării actului administrativ are ca efect încetarea oricărei forme de executare, până la expirarea duratei suspendării.

### **Art 15 Solicitarea suspendării prin acțiunea principală**

- (1) Suspendarea executării actului administrativ unilateral poate fi solicitată de reclamant, pentru motivele prevăzute la art. 14, și prin cererea adresată instanței competente pentru anularea, în tot sau în parte, a actului atacat. În acest caz, instanța poate dispune suspendarea actului administrativ atacat, până la soluționarea definitivă a cauzei. Cererea de suspendare se poate formula odată cu acțiunea principală sau printr-o acțiune separată, până la soluționarea acțiunii în fond.
- (2) Dispozițiile art. 14 alin. (2)-(7) se aplică în mod corespunzător.
- (3) Hotărârea dată cererii de suspendare este executorie de drept, iar introducerea recursului, potrivit art. 14 alin. (4), nu suspendă executarea.

- (4) În ipoteza admiterii acțiunii de fond, măsura suspendării, dispusă în condițiile art. 14, se prelungește de drept până la soluționarea definitivă a cauzei, chiar dacă reclamantul nu a solicitat suspendarea executării actului administrativ în temeiul alin. (1).

The English translation below is prepared in house and is not certified by an authorized Romanian-English translator:

#### **Art. 14 Suspension of the act's enforcement**

(1) In well justified cases and in order to prevent an imminent detriment, the injured person can, after notifying, in accordance with art. 7, the public authority that issued the act or the hierarchically superior authority, request the competent court to suspend the enforcement of the unilateral administrative act until the court's decision on the substance of that act. If the injured person does not file within 60 days the request to annul the act, the suspension terminates ipso jure and without any formality.

(2) After summoning the parties, the court shall decide urgently and with priority on the request for suspension. The procedure provided in art. 200 and 201 of the Code of Civil Procedure is not applicable. The statement of defense is mandatory and shall be filed at least 3 days before the date of the hearing. The applicant shall examine the statement with the case file. The court can grant a new hearing if the applicant wishing to examine the content of the statement of defense requests so.

(3) When the matter concerns a major public interest, which is likely to severely disrupt the functioning of an administrative public service, the request for suspension of an administrative regulation can be made by the prosecutor's office, on its own initiative or following a complaint. The provisions of para. (2) shall be applied accordingly.

(4) The decision suspending the act is enforceable as of right. This decision can be appealed with 5 days after being served. The appeal does not have a suspensory effect.

(5) In the event that a new administrative act with the same content as the one suspended by the court is issued, the former is suspended as of right. In this case, the prior complaint is not mandatory.

(6) Multiple successive requests for suspension for the same reasons can not be filed.

(7) The suspension of the administrative act's enforcement ceases all enforcement, until the expiration of the duration of such suspension.

#### **Art. 15 Request for suspension through the statement of claim**

(1) The request for the suspension of the unilateral administrative act's enforcement can be formulated by the applicant, for the reasons provided in art. 14, as part of the statement of claim requesting the competent court to annul, partly or entirely, the contested act. In this case, the court may order the suspension of the contested administrative act until the court case is decided upon. The request for suspension can be filed at the same time with the statement of claim or separately, until the substance of the case is decided upon.

(2) The provisions of art. 14 paras. (2) - (7) shall be applied accordingly.

(3) The decision on the suspension is enforceable as of right, and the appeal, according to art. 14 para. (4) does not have a suspensory effect.

(4) If the request on the substance of claim is granted, the suspension ordered upon in accordance with art. 14, is extended as of right until the final resolution of the court case, even if the applicant did not request the suspension of the administrative act's enforcement under para. (1).

## Question 6

6. The Committee is unfamiliar with a type of document called an “environmental balance for the activity” (see point (c) of page 1 of the Party concerned’s response to the communication). Please provide another name by which such a document is commonly known or otherwise, please state its purpose.

The “environmental balance” is a “mot a mot” translation of the name of a study/document that can be better understood as an “environmental site assessment”. This is usually required by the competent environmental authority for the purpose of issuing the environmental authorization. The Environmental authorization is issued for operation of an activity, after the project has been completed. At the project level, the competent environmental authority issues the environmental agreement/the EIA decision or the Screening decision. The EIA decision is based on an EIAR - environmental impact assessment report/study.

The environmental authorization for an activity which is not new is based on this type of documentation called “environmental balance” by which the state of the site is assessed, including the existence of contamination, with the purpose to propose measures of reduction to normal limits.

The “environmental balance” can be of level 0, level I or level II:

Environmental balance of level 0 is a verification sheet containing characteristic elements of the activity and allowing the competent environmental authorities to identify and establish the need for a level I or level II environmental balance, prior to authorization of an activity.

Environmental balance of level I is aimed to obtain information on the causes and consequences of negative, previous effects on the environment and consists in identifying the sources of information, collecting, analyzing and interpreting by theoretical studies the available information, finalized with the environmental balance level I report.

Environmental balance of level II is aimed to obtain information by investigating a site to quantify the size of pollution by taking samples and making physical, chemical or biological analysis of environmental factors, finalized with the environmental balance level II report.

#### Question 7

7. please clarify whether any or all of the below, referred to in pages 1-14 of the Party concerned's response to the communication, are the same entity:

Yes, we confirm that all names listed in letters a.- k. under this question represent the same entity and we are referring to it in our reply as Oltenia Energy Complex S.A.



#### Question 8

8. Please clarify whether any or all of the below, referred to in pages 1-14 of the Party concerned's response to the communication, are the same entity:

Yes, we confirm that all names listed in letters a. - e. under this question represent the same entity to which we are referring to it in our reply as LEPA Gorj ( Local Environmental Protection Agency Gorj).

## Question 9

9. On what dates were each of the deforestation decisions of the Forest and Hunting Inspectorate mentioned at page 2 of the communication issued ?

The information below is received from the Forestry Department within the Ministry of Environment, Waters and Forests:

It is not very clear to what deforestation decisions is the communicant referring to at page 2 of the Communication and for what period of time.

Given the relatively short time we had for looking into archives for the decisions the Compliance Committee is asking for, we are very sorry to inform you that we cannot provide the dates of the decisions issued for permanently remove forestry land from the national forest fund.

Râmnicu Vâlcea Forest Guard (previously called « Forest and Hunting Inspectorate Râmnicu Valcea ») has issued decisions to permanently remove or temporarily occupy land from the national forest fund, based on the acts/decisions issued by the environmental protection authority.

Subsequently, the exploitation of the wood mass related to these decisions was carried out on the basis of the documents issued for this purpose by the forest managers or service providers (local administrative forestry units) of the respective areas.

LEPA Gorj also informed us that since the 2015 EIA procedures, they have no longer issued environmental agreements only for deforestation, but for mining works that need deforestation and this means that deforestation is associated with mining or other type of project that require deforestation.

## Question 10

10. For each of the quarries listed below, please specify the dates on which the decisions issuing the environmental approval were issued.

At the end of the 2015 EIA procedures, the EIA decision issued by LEPA Gorj for every quarry is the Environmental Agreement (the name is a „mot a mot” translation from Romanian ).

We provide below the dates of the Environmental Agreements in the format „ day month year”:

- a. The Environmental Agreement no.3/27.01.2016 for the Pinoasa Pit;
- b. The Environmental Agreement no.5/18.12.2015 for the Tismana I Pit;
- c. The Environmental Agreement no.6/18.12.2015 for the Tismana II Pit;
- d. The Environmental Agreement no.2/26.01.2016 for the Rosia Pit;
- e. The Environmental Agreement no.8/15.06.2016 for the Nord Pesteană Pit
- f. Rejection of the Environmental Agreement for South Pesteană Pit due to the request of the Oltenia Energy Complex SA for the closure of the pit;
- g. The Environmental Agreement no.4/19.04.2016 for the Lupoia Pit;
- h. The Environmental Agreement no.6/09.05.2016 for the Jilt Nord Pit;
- i. The Environmental Agreement no.12/09.12.2016 for the Jilt Sud Pit.

where 27.01.2016 = 27 January 2016; 18.12.2015 = 18 December 2015, etc.

We would like to make additional clarification to the information which was submitted to you in our former response, in May 2017:

### Taking as an example Pinoasa Pit

There was mentioned Decision nr.3/27.01.2016 for the Environmental Agreement issuance. It is obvious that by „Decision issuance agreement nr.3 of 27.01.2016” we meant the Environmental Agreement no.3/27.01.2016.

Further, in our previous answer, we mentioned:

- The public announcement for the issuance of the Environmental Agreement in the local newspaper Gazeta de Sud on 18.01.2016.
- The public announcement posted at the headquarters of Calnic, Farcasesti, Negomir City Halls on 18.01.2016;
- The public announcement posted on the LEPA Gorj web page on 15.01.2016;
- The public announcement posted on Oltenia Energy Complex SA on 18.01.2016 and, as well, at the headquarters of the UMC Pinoasa ( Mining Unit of the Quarry Pinoasa).

The information mentioned in bullets above was forwarded in our previous answer for all quarries (pits).

All these public announcements were made 10 days before 27.01.2016 because the public could have time to consult and contest the draft Environmental Agreement which was also posted at the same time with the announcement. The draft agreements are still posted and can be checked on the web page of LEPA Gorj. We make an example below for the draft Environmental agreement issued for Pinoasa which can be found at the following link:

[http://www.anpm.ro/web/apm-gorj/drafturi-acte-reglementare/-/asset\\_publisher/KX6e93FaStTJ/content/proiect-acord-de-mediu-continuarea-lucrarilor-miniere-in-perimetrul-de-licenta-pinoasa-](http://www.anpm.ro/web/apm-gorj/drafturi-acte-reglementare/-/asset_publisher/KX6e93FaStTJ/content/proiect-acord-de-mediu-continuarea-lucrarilor-miniere-in-perimetrul-de-licenta-pinoasa-)

[doc?\\_101\\_INSTANCE\\_KX6e93EaStTJ\\_redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdrafturi-act-reglementare%3Fp\\_id%3D101\\_INSTANCE\\_KX6e93EaStTJ%26p\\_p\\_lifecycle%3D0%26p\\_p\\_state%3Dnormal%26p\\_p\\_mode%3Dview%26p\\_p\\_col\\_id%3Dcolumn-2%26p\\_p\\_col\\_count%3D1%26\\_101\\_INSTANCE\\_KX6e93EaStTJ\\_advancedSearch%3Dfalse%26\\_101\\_INSTANCE\\_KX6e93EaStTJ\\_keywords%3D%26\\_101\\_INSTANCE\\_KX6e93EaStTJ\\_delta%3D100%26p\\_r\\_p\\_564233524\\_resetCur%3Dfalse%26\\_101\\_INSTANCE\\_KX6e93EaStTJ\\_cur%3D10%26\\_101\\_INSTANCE\\_KX6e93EaStTJ\\_andOperator%3Dtrue&redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdrafturi-act-reglementare%3Fp\\_id%3D101\\_INSTANCE\\_KX6e93EaStTJ%26p\\_p\\_lifecycle%3D0%26p\\_p\\_state%3Dnormal%26p\\_p\\_mode%3Dview%26p\\_p\\_col\\_id%3Dcolumn-2%26p\\_p\\_col\\_count%3D1%26\\_101\\_INSTANCE\\_KX6e93EaStTJ\\_advancedSearch%3Dfalse%26\\_101\\_INSTANCE\\_KX6e93EaStTJ\\_keywords%3D%26\\_101\\_INSTANCE\\_KX6e93EaStTJ\\_delta%3D100%26p\\_r\\_p\\_564233524\\_resetCur%3Dfalse%26\\_101\\_INSTANCE\\_KX6e93EaStTJ\\_cur%3D10%26\\_101\\_INSTANCE\\_KX6e93EaStTJ\\_andOperator%3Dtrue](http://doc?_101_INSTANCE_KX6e93EaStTJ_redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdrafturi-act-reglementare%3Fp_id%3D101_INSTANCE_KX6e93EaStTJ%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_count%3D1%26_101_INSTANCE_KX6e93EaStTJ_advancedSearch%3Dfalse%26_101_INSTANCE_KX6e93EaStTJ_keywords%3D%26_101_INSTANCE_KX6e93EaStTJ_delta%3D100%26p_r_p_564233524_resetCur%3Dfalse%26_101_INSTANCE_KX6e93EaStTJ_cur%3D10%26_101_INSTANCE_KX6e93EaStTJ_andOperator%3Dtrue&redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdrafturi-act-reglementare%3Fp_id%3D101_INSTANCE_KX6e93EaStTJ%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_count%3D1%26_101_INSTANCE_KX6e93EaStTJ_advancedSearch%3Dfalse%26_101_INSTANCE_KX6e93EaStTJ_keywords%3D%26_101_INSTANCE_KX6e93EaStTJ_delta%3D100%26p_r_p_564233524_resetCur%3Dfalse%26_101_INSTANCE_KX6e93EaStTJ_cur%3D10%26_101_INSTANCE_KX6e93EaStTJ_andOperator%3Dtrue)

For none of the quarries, the draft Environmental Agreement was contested by the public during the 10 days granted to the public. After this period the draft Environmental Agreement received a number and became effective.

## Question 11

11. Please comment on the communicant's allegations that the Party concerned breached article 6 of the Convention with respect to the deforestation decisions of the Hunting and Forestry Inspectorate by failing to:

- a. Provide public consultation before the decisions were issued; and
- b. Inform the communicant of the decisions, despite the communicant's request to be notified when such decisions were issued - no answers was received for this,

a. The Hunting and Forestry Inspectorate is currently called the "Forestry Guard Râmnicu Vâlcea".

The Forestry Department in the Ministry of Environment, Waters and Forest has the following opinion:

The environmental protection authority has the main activity regarding the public consultation on the question of the land occupied by the mining quarries.

The information on deforestation was previously made available to the public by LEPA Gorj, in the consultation process for issuing the environmental agreement, in which the environmental impact assessment procedure is carried out.

The environmental agreement is the act that decides the intervention on the environment, respectively the deforestation of the forest vegetation, while the decision to remove the land from the national forest fund puts into operation the decision/environmental agreement taken by LEPA Gorj and cannot modify the provisions of the environmental agreement.

The Forestry Guard Râmnicu Vâlcea has taken steps regarding the public consultation, before issuing the decisions for permanent removal or temporary occupation of forestry land from the national forestry fund.

In this regard, announcements of public consultation were sent to the local public administrations within the radius of the lands in question, in compliance with the *Law no. 52 of January 21, 2003 on the transparency of decision-making in the public administration* and in compliance with the communication no. 251269 of March 25, 2009 received from the Ministry of Agriculture, Forests and Rural Development - Cabinet Secretary of State.

For example, for the purpose of proving our statements we attach, in copy, the following:

- address no. 11060 of October 16, 2012 of communication to the City Hall of Fărcășești Commune, Gorj County, of the announcement for public consultation regarding the area of 0.0540 ha, area that was approved for final removal from forestry fund by Decision no. 122 of October 22, 2012 (RO Annex to question 11);

- the communication no. 251268 issued in 2009 by the Ministry of Agriculture, Forests and Rural Development - Cabinet Secretary of State that was sent to all Hunting and Forestry Inspectorates for compulsory public consultation on decisions on permanent removal or temporary occupation of forestry land from the national forestry fund (RO Another Annex to question 11) .

An English translation of the Annexes to question 11 is provided with this document.

We would like to mention that from 2016 until now the Forestry Guard Ramnicu Valcea has not issued any more decisions to remove the land from the national forestry fund, as a result of the decisions made by the courts, according to which the competence of approval for the definitive removal of these surfaces from the national forest fund is up to the Romanian Government (this aspect also supported by the Asociatia Bankwatch Romania through the requests made in the court).

For the period 2016-2020 - 4 Government Decisions were issued for approval of definitive removal of these surfaces from the national forest fund, the beneficiary of the lignite exploitation is Romania.

#### Legislation in force in Romania at the time of the 2015 EIA procedures

According to the Governmental Decision (GD) no.445/2009 which transposes in national legislation the EIA Directive and which was in force at the time of the 2015 EIA procedures, the public consultation is regulated as follows :

Article 15 para (1) and para (2) require that both the environmental competent authorities and the development consent authorities must inform the public, as soon as information can reasonably be provided, whether by public notices or by posting on their web page, the following information:

- a) Any request for environmental agreement/development consent;
- b) Contact data of the environmental authorities/development consent authorities, those from which relevant information can be obtained, those to which comments or questions can be submitted, and details of the time schedule for transmitting comments or questions;
- c) the nature of possible decisions or, where there is one, the draft decision;
- d) the fact that the project is subject to an environmental impact assessment procedure and, where relevant, the fact that there is a transboundary EIA procedure, as well ( only for the environmental authorities);
- e) an indication of the times and places at which, and the means by which, the relevant information is be made available to the public;
- f) details of the arrangements for public participation

Article 16 para (1), (2), (3) and (4) provide for:

The public concerned has the right to participate early and effective to the EIA procedure, to consult documentation and is entitled to express and send comments and opinions to the competent authorities, when all options are open and before the decision on the request for development consent is taken.

Public information and participation are coordinated by the environmental protection authorities and the development consent authorities and they include:

- a) information of the public by posting public notices within a certain radius, announcements in local/national newspapers, exhibitions with schemes, tables, graphics, maps of the project, etc;
- b) the arrangements for public consultation, like public inquiry or written comments.

Article 18

The results of the public consultation must be taken into consideration when the environmental agreement/the development consent is issued.

#### Article 21

The environmental protection authorities and the development consent authorities make available to the public the issuance or the rejection of these decisions and the following information, as well:

- a) the content of the environmental agreement/development consent/rejection decision;
- b) the main reasons on which the environmental agreement/development consent/rejection decision is based, including information about the public participation process;
- c) a description of the main measures to avoid, reduce and, if possible, offset the major adverse effects.

The above mentioned provisions of the GD no445/2009 are elaborated and implemented in detail by the Ministerial Order (MO) 135/2010 for approval of the Methodology on EIA to public and private projects.

LEPA Gorj applied the MO 135/2010 at the time of the 2015 EIA procedures for the mining quarries in Gorj County.

The EIA procedure and the Decision for permanent removal of forestry land from the National Forestry Fund are tight connected one to another, and we can say that regarding public participation, the EIA procedure is doubled the development consent procedure (decisions for permanent removal of forestry land from the National Forestry Fund).

Looking back at the information which was sent by Romania to the Compliance Committee in 2017, we would like to make comments on the edge of public participation to the 2015 EIA procedures.

First of all we must emphasize that all projects subject to the EIA procedure are „ for continuation of the mining works within the license perimeter of UMC X - X Pit”, Where UMC stands for „ the mining quarry unit” and X stands for the name of the quarry, e.g. Tismana I or Tismana II or Pinoasa or Jilt Nord, etc.

The EIA procedure and the documentation submitted and required within this procedure, including the information required by the NGOs present during the public debates, contain information about the project and, as well, information about the deforestation, the translocation of the population and about health of the population within the mining area.

The duration of the EIA procedure was almost 1 year.

The mining activities were not new projects, these were on going activities for which a cumulative impact on the whole area was needed to be assessed, together with the cumulative impact of new deforestation areas which were proposed in order to go on with the mining excavation.

We would like to bring to the attention of the Compliance Committee the document entitled “Map mining pits” attached to this letter.

This map illustrates the location of the quarries in question and the location of the public debates/public inquiries during the 2015 EIA procedures. The localities underlined in red represent the location of the public inquiries.

For all mining quarries the public was announced from the beginning of the procedure and could participate right from the beginning, mainly because the project included also translocations people and demolition of their households and farms.

**The beginning of the procedure was announced, for each quarry:**

- in the local newspaper and on the web page of the Oltenia Energy Complex SA;
- at the City Hall/Mayorship of villages involved;
- on the web page of LEPA Gorj;

**The scoping report was posted on the web page of LEPA Gorj for every quarry;**

**The EIA report/EIA study and the subsequent additional information or completion to the EIA Report was posted on the web page of LEPA Gorj;**

**The public debates were announced, for each quarry:**

- in the local newspaper and on the web page of the Oltenia Energy Complex SA;
- at the City Hall/Mayorship of every village involved;
- at the headquarters of UMC X ( e.g.: Mining Quarry Unit Tismana I)
- on the web page of LEPA Gorj;

**The public debates were held only in the villages or capitals of communes where an appropriate location could be found:**

- City Hall/Mayorship of some villages and or at the Cultural House of the village.

We must emphasize once again that certain villages, especially those propose for translocation ( e.g. Pinoasa is a village within Calnic Commune and the City Hall/Mayorship is in Calnic) had no location for public debates ( no school, no cultural house or Mayor office).

All public debates took place in the capital of the Communes.

**For every quarry, the Environmental Agreement was:**

- announced in the local newspaper;
- posted at the headquarters of the villages involved;
- posted on the web page of LEPA Gorj;
- posted on the web page of the Oltenia Energy Complex SA;
- posted at the headquarters of the UMC X (e.g.: X = UMC Pinoasa stands for „ the Mining Quarry Unit”Pinoasa).

The following table summarizes the number of the public debates/inquiries for every quarry:

No. crt.	Quarry	No. of public debates	Public debates localities(Communes)	Date of the public debate, hour
10.	PINOASA	3	Fărcășești -Cultural House	19.08.2015 16 <sup>00</sup>
			Câlnic - City Hall	20.08.2015 16 <sup>00</sup>
			Negomir - City Hall	24.08.2015 16 <sup>00</sup>
11.	TISMANA I	1	Câlnic - City Hall	20.08.2015 16 <sup>00</sup>
12.	TISMANA II	1	Câlnic - City Hall	20.08.2015 16 <sup>00</sup>
13.	ROSIA	1	Fărcășești - Cultural House	19.08.2015 16 <sup>00</sup>
	PESTEANA NORD	3	Plopușoru - City Hall	12.10.2015 16 <sup>00</sup>



14.			Bălteni- City Hall	13.10.2015	16 <sup>00</sup>
			Urdari- City Hall	14.10.2015	16 <sup>00</sup>
15.	PESTEANA SUD	2	Plopușoru - City Hall	12.10.2015	16 <sup>00</sup>
			Urdari - City Hall	14.10.2015	16 <sup>00</sup>
16.	ROSIUTA	4	Slivilești- City Hall	01.10.2015	16 <sup>00</sup>
			Ciuperceni- City Hall	07.10.2015	16 <sup>00</sup>
			Motru- City Hall	08.10.2015	16 <sup>00</sup>
			Mătășari- City Hall	27.10.2015	16 <sup>00</sup>
17.	LUPOAIA	2	Cătunele - City Hall	06.10.2015	16 <sup>00</sup>
			and Motru - City Hall	8.10.2015	16 <sup>00</sup>
18.	JILT NORD	2	Fărcășești - Cultural House	05.10.2015	16 <sup>00</sup>
			Mătășari- City Hall	27.10.2015	16 <sup>00</sup>
19.	JILT SUD	5	Slivilesti City Hall	01.10.2015	16 <sup>00</sup>
			Fărcășești - Cultural house	05.10.2015	16 <sup>00</sup>
			Mătășari- City Hall	27.10.2015	16 <sup>00</sup>
			Dragotești- City Hall	28.10.2015	16 <sup>00</sup>
			Negomir - City Hall	29.10.2015	16 <sup>00</sup>

In our opinion, the communicant's allegation that the public was not properly consulted is not correct.

As we already explained, the public debates/inquiries were organized at the offices of the Mayor of the commune or in the Cultural Houses/Centers in those localities where these offices are physically located. In Pinoasa, e.g., there is no cultural home or school so they could not have organized there a public hearing.

The communicant submitted to the Compliance Committee the letter no.10058/03.12.2015 addressed to LEPA Gorj which is now posted on the web page under the ACCC/C/2016/140 case. The letter requests at least 1 public debate/inquiry in villages Rosia de Jiu, Rogojel and Timiseni.

We notice that at the end of the letter, besides Bankwatch Romania, many persons signed the letter.

We also notice that the table with the persons who support the letter does not contain identification data and/or data that can prove without any doubt, that the signatories live in one, or two or even in all three localities to which particular reference is made.

Rogojel, Timiseni and Rosia Jiu are villages within Farcasesti Commune and it seems logically that the public debates/inquiries were organized in Farcasesti, and we think it was correct to be organized in proper spaces for public meetings.

Farcasesti Commune is made up of 7 villages: Fărcășești, Fărcășești-Moșneni, Peșteana de Jos, Rogojel, Roșia-Jiu, Timișeni, Valea cu Apă and it was logic to gather people in the capital of the commune.

Another thing that we'd like to notice here is the location where the EIA Report of the 2015 EIA procedures was made available to the public.

Besides the web pages of LEPA Gorj and Oltenia Energy Complex SA, the EIA documentation for the 2015 EIA procedures was accessible at the LEPA Gorj headquarters, and, as well:

- at the headquarters of UMC Rosia (Mining Unit Quarry) located in Rovinari town, 9 Constructorilor Str., from Monday to Friday, hours 9.00-14.00,

- at the headquarters of UMC Jilt Nord, located in Matasari commune, from Monday to Friday, hours 9.00-14.00
- at the headquarters of UMC Lupoia, Catunele Commune, from Monday to Friday, hours 9.00-14.00
- at the headquarters of UMC Pinoasa, located in Farcasesti commune, from Monday to Friday, hours 9.00-14.00
- at the headquarters of UMC Tismana, located in Calnic commune, Calnic village, from Monday to Friday, hours 9.00-14.00
- at the headquarters of UMC Pesteană (Mining Unit Quarry) located in Urdari Commune, from Monday to Friday, hours 9.00-14.00,

The arguments of the public and of Bankwatch Romania were assessed and given answers and posted on web page of LEPA Gorj, according to the legislation in force at the time and they were taken into consideration and contributed to the modification of the EIA Report as well. All additions to the EIA Report and the modified EIA Report were once again posted on the LEPA Gorj web site. During the public debates, people were given answers and more elaborated answers were written down in the table Form/format required by the MO 135/2010, which is attached to the EIA Report and is posted on the web page of LEPA Gorj or can be consulted any time, being available for the public.

For example, the EIA Report for Tismana I Pit can be accessed at the following link:

[http://www.anpm.ro/web/apm-gorj/documente-procedura-eim-si-ea/-/asset\\_publisher/Wzb2ztRkJWtj/content/studiu-de-impact-tismana-i?\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp\\_p\\_id%3D101\\_INSTANCE\\_Wzb2ztRkJWtj%26p\\_p\\_lifecycle%3D0%26p\\_p\\_state%3Dnormal%26p\\_p\\_mode%3Dview%26p\\_p\\_col\\_id%3Dcolumn-2%26p\\_p\\_col\\_count%3D1%26\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_advancedSearch%3Dfalse%26\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_keywords%3D%26\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_delta%3D100%26p\\_r\\_p\\_564233524\\_resetCur%3Dfalse%26\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_cur%3D3%26\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_andOperator%3Dtrue&redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp\\_p\\_id%3D101\\_INSTANCE\\_Wzb2ztRkJWtj%26p\\_p\\_lifecycle%3D0%26p\\_p\\_state%3Dnormal%26p\\_p\\_mode%3Dview%26p\\_p\\_col\\_id%3Dcolumn-2%26p\\_p\\_col\\_count%3D1%26\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_advancedSearch%3Dfalse%26\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_keywords%3D%26\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_delta%3D100%26p\\_r\\_p\\_564233524\\_resetCur%3Dfalse%26\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_cur%3D3%26\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_andOperator%3Dtrue](http://www.anpm.ro/web/apm-gorj/documente-procedura-eim-si-ea/-/asset_publisher/Wzb2ztRkJWtj/content/studiu-de-impact-tismana-i?_101_INSTANCE_Wzb2ztRkJWtj_redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp_p_id%3D101_INSTANCE_Wzb2ztRkJWtj%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_count%3D1%26_101_INSTANCE_Wzb2ztRkJWtj_advancedSearch%3Dfalse%26_101_INSTANCE_Wzb2ztRkJWtj_keywords%3D%26_101_INSTANCE_Wzb2ztRkJWtj_delta%3D100%26p_r_p_564233524_resetCur%3Dfalse%26_101_INSTANCE_Wzb2ztRkJWtj_cur%3D3%26_101_INSTANCE_Wzb2ztRkJWtj_andOperator%3Dtrue&redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp_p_id%3D101_INSTANCE_Wzb2ztRkJWtj%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_count%3D1%26_101_INSTANCE_Wzb2ztRkJWtj_advancedSearch%3Dfalse%26_101_INSTANCE_Wzb2ztRkJWtj_keywords%3D%26_101_INSTANCE_Wzb2ztRkJWtj_delta%3D100%26p_r_p_564233524_resetCur%3Dfalse%26_101_INSTANCE_Wzb2ztRkJWtj_cur%3D3%26_101_INSTANCE_Wzb2ztRkJWtj_andOperator%3Dtrue)

All additions and completions to the EIA Report for Tismana I are at the following link:

[http://www.anpm.ro/web/apm-gorj/documente-procedura-eim-si-ea/-/asset\\_publisher/Wzb2ztRkJWtj/content/completarile-raportului-la-studiu-de-impact-asupra-mediului-umc-tismana-cariera-tismana-i?\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp\\_p\\_id%3D101\\_INSTANCE\\_Wzb2ztRkJWtj%26p\\_p\\_lifecycle%3D0%26p\\_p\\_state%3Dnormal%26p\\_p\\_mode%3Dview%26p\\_p\\_col\\_id%3Dcolumn-2%26p\\_p\\_col\\_count%3D1%26\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_advancedSearch%3Dfalse%26\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_keywords%3D%26\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_delta%3D100%26p\\_r\\_p\\_564233524\\_resetCur%3Dfalse%26\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_cur%3D3%26\\_101\\_INSTANCE\\_Wzb2ztRkJWtj\\_andOperator%3Dtrue](http://www.anpm.ro/web/apm-gorj/documente-procedura-eim-si-ea/-/asset_publisher/Wzb2ztRkJWtj/content/completarile-raportului-la-studiu-de-impact-asupra-mediului-umc-tismana-cariera-tismana-i?_101_INSTANCE_Wzb2ztRkJWtj_redirect=http%3A%2F%2Fwww.anpm.ro%2Fweb%2Fapm-gorj%2Fdocumente-procedura-eim-si-ea%3Fp_p_id%3D101_INSTANCE_Wzb2ztRkJWtj%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-2%26p_p_col_count%3D1%26_101_INSTANCE_Wzb2ztRkJWtj_advancedSearch%3Dfalse%26_101_INSTANCE_Wzb2ztRkJWtj_keywords%3D%26_101_INSTANCE_Wzb2ztRkJWtj_delta%3D100%26p_r_p_564233524_resetCur%3Dfalse%26_101_INSTANCE_Wzb2ztRkJWtj_cur%3D3%26_101_INSTANCE_Wzb2ztRkJWtj_andOperator%3Dtrue)

the EIA Report for Tismana II Pit can be accessed at the following link:

## Question 12

Please comment on the communicant's allegations that, with respect to the court cases listed in annex 3 to the communication, the Party concerned breaches article 9(4) of the Convention by failing to provide:

- a. Adequate and effective remedies, including injunctive relief as appropriate; and
  - b. Timely remedies
- a. In responding to this question, the Romanian Ministry of Justice specified that the rules of common law contained in the Law no. 554/2004 (Law on administrative litigation/contencious) are applicable. In applying art.9(4) of the Aarhus Convention, the Ministry of Justice indicated the following articles of Law 554/2004, as amended:
- art.8 - The object of the judicial action;
  - art.14 - Suspension of the act's enforcement;
  - art.15 - Request for suspension through the statement of claim;
  - art.18 - The solutions the court may issue;
  - aer.20 - The appeal;
  - art.21 - The extraordinary appeals.

Further, the Ministry of Justice furnished the following information resumed in the table below:

The duration of solving both the requests of annulment and suspension of an administrative act, during 01.01.2011 - 31.12.2019, at the level of all the courts, in all the procedural stages and in the substantive procedural stage

No.crt	Name	Procedural stage	Year	No.of files	Total solving duration(days,average )
1	Annulment of the administrative act	All procedural stages	2011	14981	135,6
			2012	40414	190,3
			2013	37278	233,5
			2014	27766	294,6
			2015	27530	319,2
			2016	24169	272
			2017	25417	266,3
			2018	26963	293,2
			2019	23320	301,3
			2011	10295	145,2

		Substantiv e stage	201 2	2871 0	204,3
			201 3	2465 8	264,7
			201 4	1894 8	331,2
			201 5	1895 4	336,1
			201 6	1589 4	269,9
			201 7	1724 0	250,2
			201 8	1794 9	288,1
			201 9	1543 4	295,5
2	Suspension of the execution of an administrativ e act	All procedural stages	201 1	3705	88
			201 2	5426	123,9
			201 3	5176	159,5
			201 4	4972	182,1
			201 5	4685	255,2
			201 6	4198	208,8
			201 7	4206	188,9
			201 8	4723	217,4
			201 9	5285	207,4
		Substantiv e stage	201 1	2484	78,3
			201 2	3518	112,4
			201 3	3550	156,1
			201 4	3508	189,1
			201 5	3191	246,2
			201 6	2768	169,2

			201 7	3702	149,1
			201 8	3028	167,9
			201 9	2922	124,3

Regarding cases indicated by the Compliance Committee listed in annex 3 of the communication, LEPA Gorj furnished the following information regarding 2011 - 2014:

No.crt.	File No.	The Court	Defendants	Subject of the case	Stage of the trial
1	17631/3/2013	Bucharest Tribunal Bucharest Court of Appeal	Greenpeace Romania Bankwatch Romania LEPA Gorj Oltenia Energy Complex SA	Suspension of the Environmental Agreement for Tismana II Quarry	Won by LEPA Gorj
2	34491/3/2013	Bucharest Tribunal	Greenpeace Romania Bankwatch Romania LEPA Gorj Oltenia Energy Complex SA	Annulment of the Environmental Agreement no.17/19.11.2012 for Tismana I Quarry	Lost by LEPA Gorj
3	34489/3/2013	Bucharest Tribunal	Greenpeace Romania Bankwatch Romania LEPA Gorj Oltenia Energy Complex SA	Annulment of the Environmental Agreement no.16/2012 for Tismana II Quarry	Lost by LEPA Gorj
4	34493/3/2013	Bucharest Tribunal	Greenpeace Romania Bankwatch Romania LEPA Gorj Oltenia Energy Complex SA	Annulment of the Environmental Agreement no.15/2012 for Pinoasa Quarry	Lost by LEPA Gorj

5	21930/3/2014	Bucharest Tribunal	Bankwatch Romania LEPA Gorj Oltenia Energy Complex SA	Annulment of the Environmental Agreement no.11/19.05.2014 for Pinoasa Quarry (80ha)	Lost by LEPA Gorj
6	37234/3/2014	Bucharest Tribunal	Bankwatch Romania LEPA Gorj Oltenia Energy Complex SA	Suspension of the Environmental Agreement nr.10/14.05.2014 – Valea cu Apa, UP I Stramba, Rosia Quarry (159,86 ha)	Won by LEPA Gorj

Romania did not breach the provisions of art. 9(4) of the Convention as it provided the communicant with the opportunity to claim and obtain adequate, effective, and timely remedies, including injunctive relief.

The administrative and judicial review process are provided in the Romanian specific environmental legislation, namely the Government Decision on the access of the public to environmental information (Hotărârea nr. 878/2005 privind accesul publicului la informația privind mediul) and in the Government Decision on impact assessment for public and private projects (Hotararea nr.445/2009 privind evaluarea impactului anumitor proiecte publice si private asupra mediului).

Since 2018, when the Government Decision no.445/2009 has been abrogated and the Law no.292/2018 on impact assessment for public and private projects has taken its place, the access to justice in questions that are linked to acts, decisions or omissions of public authorities that are subject to public participation in environmental decision-making is currently in force.

In the same time, the Law on Administrative litigation/contencios (Legea nr. 554/2004, Legea contenciosului administrativ) fulfills the requirements of adequate and effective remedies according to art. 9(4) of the Convention.

According to the legislation indicated above, any person or entity which considers its rights or legitimate interests harmed by an administrative act can request the issuing authority or the supervising authority of the latter to withdraw, entirely or partially, the act in question, even if that act concerns another person or entity. In the absence of a reply to the request or when that person or entity is unsatisfied with the reply received from the issuing authority or from the supervising authority, it can request the court to annul the administrative act, and compensate the damage, including the moral damage.

Under the Romanian legislation, injunctive relief can be requested within court proceedings, in accordance with the Law on Administrative litigation. In order to grant an injunction, the courts assess whether two conditions are cumulatively satisfied: well justified case (reasons) and imminent detriment. In accordance with the same Law, the well justified case (reasons) is defined *as factual and legal circumstances, which are likely to create serious doubt as to the legality of the administrative act (art. 2 letter t: cazuri bine justificate - imprejurari legate de starea de fapt si de drept, care sunt de natura sa creeze o indoiala serioasa in privinta legalitatii actului administrativ).*

In their practice, Romanian courts regularly stress that requests for injunctive relief should not lead to a detailed examination of the administrative act in question. Therefore, according to the same practice, the serious doubt should be easily ascertained by the court when reviewing the case, without going into a detailed analysis of the substantial and formal conditions for issuing a certain administrative act.

b. Romania finds that the duration of injunctive relief proceedings as well as general administrative litigation (annulment procedures) complies with the requirements of article 9(4) of the Convention. According to statistics compiled by the Ministry of Justice of Romania, within the last nine years, the duration of injunctive relief court proceedings (including on environmental cases) has varied between 135 and 319 days, while the duration of annulment proceedings has varied between 88 and 255 days.