

10 February 2020

Ms. Dorina Mocanu
Ministry of Environment
Bucharest, Romania

Ms. Catalina Radulescu
Bankwatch Romania
Bucharest, Romania

Dear Ms. Mocanu,
Dear Ms. Radulescu,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Romania with article 6 and 9 of the Convention with respect to the extension of lignite quarries in Gorj County (ACCC/C/2016/140)

I refer to my letter of 4 February 2020 inviting the Party concerned and the communicant to participate in the hearing to discuss the substance of the above communication to be held at the Palais des Nations, Geneva, on Thursday, 12 March 2020.

In preparation for the hearing, the Committee has identified a number of questions upon which it seeks clarification from the Party concerned and the communicant in writing prior to the hearing. To this end, please find **enclosed** the questions prepared by the Committee for your attention.

The Committee would be very grateful to receive your replies by **Monday, 9 March 2020**. Please send your comments to aarhus.compliance@un.org, copying the other party. The other party will have two weeks from the receipt of your answer to provide the Committee with any comments it wishes to make on your reply.

Please do not hesitate to contact the secretariat if you have any questions.

Yours sincerely,



Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee

Cc: Permanent Mission of Romania to the United Nations Office and other international organizations in Geneva

Enc: Questions from the Committee to the Party concerned and communicant

Question to the Party concerned and the communicant:

1. Please list in order the sequence of decisions required to permit the extension of a quarry under the law of the Party concerned.
2. With respect to the decisions listed in your reply to question 3, please specify:
 - a. To which of these decision does article 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 4(a)?
3. Were each of the documents listed in points (a) to (e) on 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?
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. (For clarity, please specify each date in the format "day month year", e.g. 10 January 2015 or 22 June 2016.):
 - a. The Pinoasa Pit
 - b. The Tismana I Pit
 - c. The Tismana II Pit
 - d. The Rosia Pit
 - e. The Nord Pesteana Pit
 - f. The South Pesteana Pit
 - g. The Lupoia Pit
 - h. The Jil Nord Pit
 - i. The Jil Sud Pit

Questions to the Party concerned:

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.
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.

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:
 - a. "Oltenia Energy Complex S.A." ¹;
 - b. The "(project) owner" ²
 - c. The "developer" ³
 - d. "SCE Oltenia" ⁴
 - e. "SCE Oltenia SA" ⁵
 - f. The "S.C.E.O." ⁶
 - g. The "CEO" ⁷
 - h. The "operator" ⁸
 - i. "Oltenia Energy Complex S. S.A." ⁹
 - j. "Oltenia S.A. Power Plant" ¹⁰
 - k. "Oltenia Energy Complex, Section Responsibility /Environment" ¹¹

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:
 - a. "The environmental authority" ¹²
 - b. The "Local Environmental Protection Agency Gorj" ¹³
 - c. "LEPA Gorj" ¹⁴
 - d. "EPA Gorj" ¹⁵
 - e. "A.P.M. Gorj" ¹⁶

9. On what dates were each of the deforestation decisions of the Forest and Hunting Inspectorate mentioned at page 2 of the communication issued? (For clarity, please specify each date in the format "day month year", e.g. 10 January 2015 or 22 June 2016.)

10. For each of the quarries listed below, please specify the dates on which the decisions issuing the environmental approval were issued. (For clarity, please specify each date in the format "day month year", e.g. 10 January 2015 or 22 June 2016.)
 - a. The Pinoasa Pit
 - b. The Tismana I Pit
 - c. The Tismana II Pit

¹ Party's response to the communication, p. 1.

² Party's response to the communication, pp. 1, 3-6, and 12-13.

³ Party's response to the communication, pp. 2-9, 12.

⁴ Party's response to the communication, pp. 2, 5-6, 8.

⁵ Party's response to the communication, pp. 3-5.

⁶ Party's response to the communication, pp. 3-5.

⁷ Party's response to the communication, pp. 5-7.

⁸ Party's response to the communication, pp. 3, 6 and 12-13.

⁹ Party's response to the communication, p. 13.

¹⁰ Party's response to the communication, p. 13.

¹¹ Party's response to the communication, p. 14.

¹² Party's response to the communication, p. 1.

¹³ Party's response to the communication, p. 2.

¹⁴ Party's response to the communication, pp. 3-5, 8-14.

¹⁵ Party's response to the communication, pp. 3 and 12.

¹⁶ Party's response to the communication, pp. 3-5, 7-9, 12-14.

- d. The Rosia Pit
 - e. The Nord Pesteana Pit
 - f. The South Pesteana Pit
 - g. The Lupoia Pit
 - h. The Jil Nord Pit
 - i. The Jil Sud Pit
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.¹⁷
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.¹⁸

Questions to the communicant:

13. Please explain how the deforestation decisions of the Forest and Hunting Inspectorate come within the scope of article 6.
14. Please explain what, if any, options the Forest and Hunting Inspectorate decisions foreclosed (meaning that those options were no longer open at the time of the EIA procedures) for the extensions of the quarries at issue in the communication.
15. Please substantiate your claim at page 3 of the communication that the information provided in the course of the EIA procedures for the extensions of the quarries at issue in the communication was not complete and that many documents were not transmitted until after the decision(s) to issue the environmental permit(s) had already been taken. Specifically:
- a. Which documents, for which pits, were "not complete"?
 - b. Which documents, for which pits, were only transmitted after the decisions to issue the environmental permits were already taken?
16. Please provide relevant documentary evidence, together with an English translation thereof, to substantiate your claim at page 3 of the communication that the arguments of the public were not assessed properly in the course of the EIA procedures for the extensions of the quarries at issue in the communication and were rejected without scientific arguments.

¹⁷ Communication, p. 2.

¹⁸ Communication, pp. 2-4, and annex 3.

17. For each of the quarries within the scope of your communication, please provide evidence to substantiate your claim on page 4 of your communication that “by the time the final decisions have been made by the administrative courts by annulling the permits, the environmental factors the cases were aiming to protect, have already been destroyed.”
 18. In annex 3 to the communication you refer at page 1 to a quarry named “Garla”, yet this does not seem to be one of the quarries named in the communication itself. Please clarify to which quarry this reference refers and whether it is intended to be within the scope of the communication or not.
 19. Please provide an updated version of annex 3, with an additional column stating the outcome of each case, e.g. “injunctive relief refused” or “permit upheld” or “permit annulled”. For each permit that was annulled, please briefly explain the court’s main reasoning for doing so.
 20. Please provide the text of each of the court decisions referred to in the tables in annex 3 to the communication in a searchable pdf format, together with an English translation of (at least) the relevant parts thereof.
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