

**Questions to both the Party concerned and communicant:**

1. At the hearing to discuss the substance of the communication held at the Committee's 65<sup>th</sup> meeting, the Party concerned claimed that a representative of the communicant was invited to the office of the State Hydrometeorological Service (SHS) for the purpose of collecting the requested "primary information," and the communicant confirmed that its representative indeed visited the SHS office in order to obtain this information. With respect to the communicant's visit to the SHS, please clarify:

- (a) On what date(s) did the communicant attend the office of the SHS to collect the requested information?

**Party's concerned Answer:** It is necessary to clarify further who (the persons within the public authority (State Hydrometeorological Service) were directly involved in the process of providing assistance in providing data to the communicant's representative. Obviously, the risk of not finding the exact data or persons in this regard persists. Additional time is requested for clarification and confirmation of declarations already submitted on the 20 June 2020 by the communicant (Eco Tiras)

- (b) Was the communicant indeed able to obtain the information requested at points 1 and 2 of its letter of 25 July 2016 during its visit(s) to the SHS?

**Party's concerned Answer:** Taking into account that the responsibility for the implementation of the provisions of the Aarhus Convention is the task of the Ministry of Agriculture, Regional Development and Environment of Republic of Moldova, and State Hydrometeorological Service is a structure subordinated to the ministry, according to the point 1 of the Government Decision no. 401 from 03.04.2003 "regarding some aspects regarding the hydrometeorological activity in the Republic of Moldova", we plan to initiate an inter-institutional investigation with the hearing of the involved subjects in order to clarify the veracity of the information reported by the communicant (Eco Tiras). Thus, as a Party to the Aarhus Convention, in order to avoid interpretations in this regard, the Republic of Moldova later will come with a clear position and supporting documents.

- (c) Did the communicant, either before or during its visit to the SHS, ask SHS staff to provide it with any assistance to collect the requested information during its visit? If so, what assistance did the communicant request?

**Party's concerned Answer:** The request for the provision of SHS assistance regarding the collection of additional information cannot be clearly established or demonstrated, based on the communicant's report, compared to the facts in reality. The communicant's verbal discussions and declaration, such as "it was clear to him that it was impossible to receive explanations", cannot constitute evidence in the insinuation of careless actions or inactions of SHS staff that public institution did not provide assistance.

These sensitive issues for both parties cannot be interpreted in a favor of the applicant, despite the fact that there are several irregularities or gaps in the national regulatory framework in this area. This justifies that more time is needed for clarification and hoping if it will be possible to prove something after almost 4 years, during which time there were several institutional reforms, and the correspondence could be liquidated or the staff laid off.

- (d) Irrespective of whether the communicant asked for assistance, was the communicant in fact provided with any assistance to collect the requested information during its visit to the SHS, for example, to identify on which shelves or volumes the requested data could be found or to make copies? If so, please describe the assistance provided.

**Party's concerned Answer:** The communicator's statements show that the first meeting (visit)

to the SHS headquarters failed, due to the execution of repair works, that making it impossible to consult the information stored on the shelves of the specialized library of the State Hydrometeorological Service, which represent the Hydrometeorological Data Fund; Consequently, according to the communicator statement “he was verbally assisted” due to the several questions that appeared from the examination of the official letter of SHS of 03.10.2016. The fact of personal dissatisfaction can be interpreted subjectively, until proven otherwise. Thus, we reiterate the need to carry out an internal investigation (between the ministry and SHS) regarding the elucidation of the demonstrated attitude and all the facts and actions taken by the SHS collaborators towards the communicator.

2. In its letter no. 01/662 of 21 April 2017, the SHS states that it had “presented ‘EcoTIRAS’ Association the data on mean monthly water streamflow at the Hydrological Point Baltata, starting from 1954.”<sup>1</sup>

- (a) On what date was the data on mean monthly streamflow provided to the communicator? Please provide a copy of the covering letter from the SHS enclosing the data, together with an English translation of that letter.

**Party`s concerned Answer:** The answer can be deduced from the annexes presented by communicator (EcoTiras). In case of subsequent appearance of new issues and evidence, other than the communicator's statements supported by the attached documents, its will be submitted by the Party concerned to the Committee for consideration.

- (b) Did the SHS provide the communicator with the data on the mean monthly streamflow for every month since 1954? If not, did SHS provide an explanation of why data was not provided for any particular months (for example, that it did not hold any data for that month)?

**Party`s concerned Answer:** At the communicator`s request from 08.08.2016 adressed to the SHS (at the moment the address is not a party to the file), the information was presented attached in a table form, by SHS letter no. 07/952 from 03.10.2016.

For some ambiguities, according to the communicator's statement, verbal answers were offered during the visit, facts without probation.

According to the communicator's statement “No any explanation was presented together with the response letter”. Officially, no records have been registered by communicator in this regard. There is no complete evidence (letters) to resolve the case, which, in our view must constitute a whole, for the case`s objective examination.

- (c) Did SHS request the communicator to pay a fee for the mean monthly streamflow data it provided? If so, how much was the communicator requested to pay?

**Party`s concerned Answer:** The available information was provided free of charge, as stated in its reply to the communicator (Eco Tiras). Requests for payments considered less acceptable were probably related to the exercise of replenishment and collection, subsequent systematization of missing data. It is necessary to clarify these moments in more detail with the executors / authors of the reply letters addressed to the communicator.

#### **Questions to the Party concerned:**

6. Please provide a copy of the letter no. 07/552 from SHS dated 3 October 2016, together with an English translation thereof.

**Party`s concerned Answer:** Where documents relating to this matter are published on the Committee's website, they may be considered irrelevant or false unless proven otherwise. At the moment it is not possible to attach it to the questionnaire. As soon as possible we will ensure the

transmission of the scanned copy from the original, if it still exists in the SHS archive. The internal investigations will start, as mentioned before.

7. In letter no. 01/662 of 21 April 2017, the SHS stated that the information from the 1950s to the present:

“is seen as the whole data set of the primary data of the Fund of Hydrometeorological Data. In that case, if the requested information is of primary nature then, in accordance with the Government Regulation no. 330 from 03.04.2016, the services are provided at charge.”<sup>2</sup>

Please explain what is meant by the terms “primary information” (первичная информация), “primary data” and “information of primary nature”. Please provide any relevant provisions of legislation where these terms are defined, together with an English translation thereof.

**Party`s concerned Answer:** The information is primary - it is the SHS statement that qualifies the need to collect taxes. Additional time is needed to clarify the conditions and conventions of SHS staff to qualify data submission as extra work in order to justify the collection of payments, or, they were available on the website of the State Hydrometeorological Service, and by this an abuse was admitted.

This terms is not delimited or interpreted in the national legislation, it can be deduced through the morphological explanation and the use of dictionaries in this sense. At the same time, under the conditions of art. 5 of the Law on hydrometeorological activity, no. 1536 from 25.02.1998, the definition of “specialized information” - specifies that this is special purpose information on the state and pollution of the environment, which requires additional costs for obtaining, processing, analysis, storage and presentation, in accordance with consumer requests. Consequently, it can be considered different from the primary information, which in terms of assumptions would lead to more actions involving costs, sources and effort to be justified as liable for payment.

8. By letter no. 03/737 of 1 August 2016, the SHS stated that the information requested by the communicant on the temperatures at the hydrometeorological station Baltata and the streamflow of the Baltata River could be received in either of two ways. The first option was that: “the Service’s staff collects, organizes, and presents the information at the charges in the amount of 730374,50 lei”.

With respect to this first option, please provide a detailed breakdown of how the cost of 730,374.50 lei was calculated, including:

- a. Which, if any, provisions of annex 2 of Regulation No. 330 is this cost based upon?
- b. For each relevant provision of annex 2 of Regulation No. 330, how many units of that provision are included in the calculated cost?
- c. What was the total cost for **each** of the relevant provisions of annex 2 of Regulation No. 330?
- d. What, if any, other charges were included in the cost of 730,374.50 lei? Please provide the text of the relevant legislative provisions setting out those other charges together with an English translation thereof. Please also provide a breakdown of how the other charges were calculated based on these legislative provisions.

**Party`s concerned Answer:** There are questions, the detail clarification of whose required these calculations or cost deductions, directly with the people who were involved in the process. We repeatedly support the necessity a importance of the deadline extending.

9. With respect to the second option set out in the SHS' letter no. 03/737 of 1 August 2016, namely that:

“The Service provides an official access in its office to the requested information to your employees who collects the information unassisted, with no help from SHS staff”

please clarify:

- a. Would the information that the communicant could collect in person under option 2 have been identical to the information that it would have received upon payment of the 730.374.50 lei under option 1?
- b. What, if any, was the cost to the communicant under option 2? For example, was it during its visit to the office of the SHS able to ask for copies to be made of the relevant information it found in the SHS' files and, if so, what was the cost to the communicant for those copies (per page and total cost)?

**Party`s concerned Answer:** There are questions for which it is necessary to clarify in detail, directly with the people who were involved in the process. We repeatedly support the need to extend the deadline for reporting responses.

10. At page 2 of its response to the communication of 12 July 2019, the Party concerned states that:

“the payment was requested not for the primary data (for which the Eco-Tiras representative was invited to the office), but for the preparation of the processes analytical information, which require staff time and additional separate work.”

- a. What is the specific “analytical information” referred to in the above statement and how does the “analytical information” relate to the communicant’s information request of 25 July 2016?
- b. If it is not already explained in your reply to question 8 above, what would be the cost for “the preparation of the processes analytical information, which require staff time and additional separate work” and how was that cost calculated?

**Party`s concerned Answer:** the statement that “payment was requested not for the primary data (for which the Eco-Tiras representative was invited to the office), but for the preparation of the analytical information processes, which require staff time and separate additional activity. ”, expressed by the response of the Republic of Moldova on July 12, 2019, remains to be materialized by involvement in bilateral discussions with SHS, which will be reported through subsequent steps to the Committee.

11. Also at page 2 of its response to the communication, the Party concerned states that the:

“issue of interpretation of primary, historical and processed/analytical information and of calculation of the payment for it hopefully will be possible to be solved by adjusting the legal and regulatory base of concern and re-examine this case in the framework of the re-established Working Group for the implementation of the Aarhus Convention in Moldova.”

- a. Please specify what, if any, measures have been taken by the Party concerned since 12 July 2019 with respect to the fees for the provision of primary, historical and processed/analytical environmental information.

- b. Please provide the text of any legislative, regulatory or administrative measures adopted since 12 July 2019, together with English translations thereof.
- c. For any measures still in draft form, in addition to providing the draft text and an English translation thereof, please also explain the expected timeline for their adoption.

**Party`s concerned Answer:** The steps taken through the actions planned and mentioned in the letter of 12.07.2019, are in progress, so we can report on:

\* the establishment of the National Working Group for the implementation of the provisions of the Aarhus Convention and the improvement of the specific national framework;

\* the meeting of the WG have as representatives / members from all the subordinated ministries institutions, who have attributions to provide public acces and free environmental information;

\* discussing the aspects of solving (ACCC/C/2017/147) case.

\* others.

The legal framework currently remains unchanged. A new Action Plan on the implementation of the Aarhus Convention is at the draft stage. Other actions to improve the situation and avoid excessive costs for information and free services to the interested public are to be started.

In the global pandemic situation and the functional instability at political level in the country, the estimated risks for the finishing of the planned actions and to continuous implementation of the provisions of the Convention, is increased. Thus, we consider it necessary to rely on mutual trust and continuous collaboration based on understanding in order to close the identified gaps and reach a standard that is appreciated alongside other Parties to the Aarhus Convention.