

4 June 2020

Mr. Dumitru Gorelco
Ministry of Agriculture, Regional Development and Environment
Chisinau, Republic of Moldova

Mr. Ilya Trombitsky
“Eco-TIRAS” International Association of River Keepers
Chisinau, Republic of Moldova

Dear Mr. Gorelco,
Dear Mr. Trombitsky,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by the Republic of Moldova with regard to access to information held by the State Hydrometeorological Service (ACCC/C/2017/147)

During the hearing of the above communication at its sixty-fifth meeting (Geneva, 4-8 November 2019), the Compliance Committee indicated that following the hearing it would send further questions for the written replies of the Party concerned and communicant. Please now find enclosed the questions prepared by the Committee for your attention.

The Committee would be very grateful to receive your replies on or before **Thursday, 2 July 2020**. Please send your replies to aarhus.compliance@un.org, copying the 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 the Republic of Moldova to the United Nations Office and other international organizations in Geneva

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

Questions to both the Party concerned and communicant:

1. At the hearing to discuss the substance of the communication held at the Committee's 65th 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?
 - (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?
 - (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?
 - (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.
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."¹
 - (a) On what date was the data on mean monthly streamflow provided to the communicant? Please provide a copy of the covering letter from the SHS enclosing the data, together with an English translation of that letter.
 - (b) Did the SHS provide the communicant 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)?
 - (c) Did SHS request the communicant to pay a fee for the mean monthly streamflow data it provided? If so, how much was the communicant requested to pay?

Questions to the communicant:

3. With respect to the SHS's letter no. 03/737 of 1 August 2016:
 - (a) Did the communicant request an explanation of how the cost of 730374.50 lei was calculated? If so, please provide a copy of the communicant's letter requesting this, together with an English translation thereof. Please also provide a copy of any

¹ Communication, annex 2, p. 11.

explanation provided by SHS regarding how the cost of 730374.50 lei was calculated, together with an English translation thereof.

- (b) If the communicant did not query the sum quoted by SHS or ask for an explanation of how it was calculated, please explain why not.
 - (c) What is your understanding, based on the provisions of Annex 2 of Regulation 330 of 3 April 2006, of how the sum of 730374.50 lei was calculated?
4. What assistance would you have expected the SHS to provide in order to assist the communicant to collect the requested information in person?
5. Would it have been possible for the communicant to have challenged the following either before the courts and/or an Ombudsman?
- (a) The alleged failure by the SHS to provide assistance to assist the communicant to collect the requested information in person.
 - (b) The fee of 730374.50 lei quoted by the SHS to provide the requested information.

Did the communicant in fact challenge either of the above in the courts or before an Ombudsman? If so, what was the outcome of those challenges? If the communicant did not do so, please explain why not.

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.
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.”²

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.

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”.

² Communication, annex 2, p. 12.

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.

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)?

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?

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.
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