

ALBURNUS MAIOR
Rosia Montană
W O R K I N G F O R

Jeremy Wates

Secretary

Convention on Access to Information, Public Participation on Decision-making and Access to
Justice in Environmental Matters

Bureau 332

Palais des Nations

1211- Geneva 10

Switzerland

Fax: + 41 22 917 0634

E-mail: jeremy.wates@unece.org

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Dear Mr Wates,

Re: ACCC/C/2006/15 - copy of the letter

Thank you for copying us the letter (and its translation) referred to in the comments by Romania on the draft findings and recommendations of the Committee (forwarded to you for information on 28 January 2008).

We would like to bring to your attention the following observations:

On 24 April 2007 we copied you a letter addressed to Mr. Attila Korodi, the Minister for the Environment. This letter referred to the legislative proposal of the Ministry for the Environment that wishes to change the current Ministerial Order 860/2002 on the environmental impact assessment procedure. You can still access this legislative proposal at http://www.mmediu.ro/legislatie/controlul_poluarii/apr07/OM_EIA.pdf

Our letter which we re-attach for your information summarized the proposal's main arguments and our replies to them. According to Art. 42 of the proposal, a project owner may ask the environmental authorities not to give the public access to any of the documents that form part

of an EIA procedure (i.e. request for an environmental accord, technical memorandum, **the EIA report**, the security report, etc.); **quoting commercial and industrial confidentiality as well as intellectual property rights**. The proposal is still posted on the Ministry for the Environment's website and the Ministry has not announced that it has abandoned this project. This means that we feel that our concerns are still very much pertinent.

The letter (Nr. 1/ 1399 of 22.06.2007) you kindly copied us few days ago together with it's English version only confirms our concerns. First and foremost, this letter is not a normative act, while the above proposal is an official submission to become a relevant normative act.

With regards to the confidentiality of the data, the President of the National Environmental Protection Agency does not detail what kind of rules, standards and procedures will be applied for granting confidentiality of data to a project owner.

Any decision of excluding EIA information from public disclosure, either based on confidentiality or on intellectual property rights, must at the very least be open, transparent and be submitted to public scrutiny in order to avoid abuse.

Yours sincerely,

Eugen David
President
Alburnus Maior