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Mr. Jeremy Wates
Secretary of the Aarhus Convention
United Nations Economic Commission for Europe
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Rosia Montana, 20 June 2005

Dear Mr. Jeremy Wates,

The undersigned NGO *Alburnus Maior*¹, headquartered in Berk Street No. 361, 517615 - Rosia Montana, Alba County, Romania assisted by its lawyer Catalina Radulescu, Arcului Street No. 19, Bucharest, Romania herewith formulates and submits the present

Communication to the Aarhus Convention Compliance Committee

concerning Romania's Ministry for Environment and Water Management failure to comply with the provisions of the Aarhus Convention for the Environmental Impact Assessment (EIA) of the Rosia Montana (Romania) open-cast gold mine proposal. This communication is endorsed by thirty NGOs as well as members of the European Parliament. It requests the Compliance Committee to take all appropriate measures to remedy the serious situation arising from Romania's Ministry for Environment non-compliance with the provisions of the Aarhus Convention; as ratified by Romania with Law 86/2000.

The Rosia Montana² 13Mt/a open-cast gold mine is a commercial venture proposed by 'Rosia Montana Gold Corporation.' In December 2004 the project sponsor initiated the EIA procedure by submitting the so-called 'Project Presentation Report'³ to the relevant Romanian environmental protection agencies. The authority in charge for coordinating the procedure is Romania's Ministry for the Environment and Water Management (MMGA). MMGA is therefore also responsible for enforcing the provisions of the Aarhus Convention.

Given that the opposition to the Rosia Montana mine proposal has given rise to Romania's largest civil society movement, the EIA procedure itself equally triggered sizeable attention from the part of concerned NGOs, citizens and expert institutions. A significant number of them officially registered as "consulted parties" for the EIA procedure.⁴ As such, they have the right to be notified and consulted about each step of the EIA procedure; a right guaranteed by the Aarhus Convention.

¹ *Alburnus Maior* is an NGO based in Rosia Montana. It represents the interest of over 350 families from Rosia Montana and 100 families from Bucium. Local property owners opposing the involuntary resettlement that RMGC's project entails founded this association in September 2000. *Alburnus Maior* objects to RMGC's Rosia Montana mining proposal on social, environmental, cultural and economic grounds.

² For more information please visit www.rosiamontana.org

³ See Romania's Ministry for the Environment webpage, section on Rosia Montana on www.mappin.ro

⁴ The entire list can be accessed on www.apm-alba.ro

It is with great concern that numerous of these consulted parties, including Alburnus Maior took note of MMGA's recent announcement⁵ that the scoping list for the Rosia Montana EIA was finalized. This was done without any form of public participation and in a complete lack of transparency. **The absence of public participation and consultations for the Rosia Montana EIA scoping stage is a violation of Art. 6, pct. 3, 4, 6, 7 and 8 of the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters; as ratified by Romania with Law 86/2000.**

The NGOs and MEPs on whose behalf we are submitting this communication, also sent a detailed contestation to MMGA requesting it to reinstate the Rosia Montana EIA scoping stage; this time creating all the necessary conditions for the public to be adequately consulted.⁶ Several similar contestations highlighting irregularities committed by MMGA on procedural aspects of the Rosia Montana EIA were sent on previous occasions. The ministry's replies have been far from encouraging and the only way to oblige it to apply all relevant legal provisions has been to initiate court actions. Unfortunately such litigations tend to last between one and two years. This means longer than the EIA procedure itself. By the time of a final verdict the mining operation itself could have already started.

To give but one concrete example: when the so-called 'Project Presentation Report' was submitted to the environmental authorities in December 2004, the latter failed to notify all the officially registered consulted parties that the EIA procedure had commenced. Whilst Alburnus Maior consequently initiated a legal procedure against MMGA, it is currently still awaiting for the first court meeting to be announced. All the while the EIA procedure is proceeding ahead.

This implies serious risks as well as irremediable damages; this not only concerning the accurate enforcement of legal provisions but consequently also regarding Rosia Montana's and the region's inhabitants, the natural environment, cultural patrimony and so on. Alburnus Maior, the NGOs and MEPs therefore consider this present communication and your subsequent measures to be the only realistic way to remedy this grave situation in a timely manner and to prevent further severe risks and damages.

In light of the above and the facts detailed in the attached contestation, we look forward to receiving your assurance for the factual enforcement of the Aarhus Convention for the Rosia Montana EIA procedure as well as the measures you will take to remedy the current situation.

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⁵ It can be accessed on <http://www.mappm.ro/legislatie/rmontanainfo.html>

⁶ Please find attached a copy of the English version submitted to Sulfina Barbu, Romania's minister for the Environment and Water Protection