

[Response by PALP – 3rd July 2019](#)

For the Compliance Committee's sixty-fourth meeting, PALP sent a document regarding the use of domestic remedies on 28th of June and on Monday 1st of July participated in the audio-session. Following the questions asked during the session, we hereby present further clarification.

Question 6. b). The government authorities don't easily respect other instances of power, namely the judicial power. For example, in the answer given to the Court by the Ministry of the Sea, in 17-01-2019, regarding the request to present the document of the renouncement of the oil companies, to which they disregarded the Court request (not providing access) and responded "this is not the suitable channel to request to the Administration information or the overview of processes".

Question 8. PALP stated that it is likely that the judicial process will be "dismissed" and during the audio-session it was mentioned that to continue the process would be a waste of time, since the TUPEM and the contracts have expired. However, **there is a risk that a similar sentence may be issued in the other judicial process, the case against the APA, and in consequence the facts that substantiate the process are not analyzed and the accusation of the "VIOLATION of the RIGHT OF INFORMATION".**

Question 9. The usual behavior of the government entities and the government itself is to not provide information, or take time to provide it. Thus, when the access is given, that information is no longer useful for the purpose intended. Therefore, **there are chronicle (administrative) difficulties in the access to information, and consequently to the right of public participation in decision-making as well as to access to justice (in environmental issues).**

List of the documents, which are in the possession of APA (Environmental Agency), ENMC and DGRM, and to which PALP had no access up to this date:

- **APA** - Most of the technical documents relating to the oil drilling project are not public knowledge. None of the mandatory Opinions of a number of entities, in the Environmental Impact Assessment (AIA) procedure, were made public. It is not even known if any of these entities failed to give an Opinion; APA informed the media that all entities had provided an Opinion against the AIA, but, it was later discovered that CCDR Algarve had submitted an Opinion in favour of the AIA (contradicting what APA had previously stated). See more information on page 11 of PALP's document sent in January 2019.
- **ENMC** - the activity plans of the oil companies of the oil prospecting; the reports of the activities carried out after 2012; the technical and scientific reports after 2012, the cetaceans observers reports; the documents on the technical competence and economic viability of the oil companies; the Opinions by APA and ICNF on the authorization of the activities of prospecting; the assessment of environmental impact of the works already undertaken. See page 7 of the PALP's document sent in January 2019.
- **DGRM** – their final Opinion, after the public consultation on the authorization of the TUPEM; DGPC's Opinion, who presented conditions to the issuing of the TUPEM; the Opinions of several entities were not made public (just a summary of some entities, without mentioning the dates nor the period during which they received the opinion of the entities). See more information page 8, 9 and 10 of the document.
- In addition to this refusal to give access to information, the **Ministry of the Environment, the Secretary of State for energy and other official entities do not respond or do not provide access to public documentation.** See more information in pages 10, 11 and 12 of the document sent in January 2019.

In PALP's court procedure against APA, it is stated in 12-02-2019: "*Lack of procedural cooperation, violation of the principle of good faith, the principle of an open Administration and of the cooperation with the public. All that is shown in the omissive behaviour of the accused, as well as in the behaviour of the counter parts*".

Portugal, 3rd July 2019

PALP - Plataforma Algarve Livre de Petróleo